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HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

SEVENTY-FIRST CONGRESS

SECOND SESSION

ON

S. 3059, 3060

H. R. 8374, 8655, 9560, 11414, 12550, and 12551

Serial 11

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HOUSE OF REPRESENTATIVES

SEVENTY-FIRST CONGRESS, SECOND SESSION

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UNEMPLOYMENT IN THE UNITED STATES

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Wednesday, June 11, 1930.

The committee met at 10 o'clock a. m., Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. Gentlemen of the committee, we have before us certain House bills and Senate bills relating to the subject of unemployment. The hearing is set to-day for a presentation of the views of those who are either advocates or opponents of these measures.

The bills on which these hearings were held are as follows: S. 3059, S. 3060, H. R. 8374, H. R. 8655, H. R. 9560, H. R. 11414, H. R. 12550, and H. R. 12551.

[S. 3059, Seventy-first Congress, second session]

AN ACT To provide for the advance planning and regulated construction of certain public works, for the stabilization of industry, and for the prevention of unemployment during periods of business depression

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Employment stabilization act of 1930."

DEFINITIONS

SEC. 2. When used in this act—

(a) The term "board" means the Federal Employment Stabilization Board established by section 3 of this act.

(b) The term "United States," when used in a geographical sense, includes the several States and Territories and the District of Columbia.

(e) The term "public works emergency appropriation" means an appropriation made in pursuance of supplemental estimates transmitted to the Congress under the provisions of this act.

FEDERAL EMPLOYMENT STABILIZATION BOARD

SEC. 3. (a) There is hereby established a board to be known as the Federal Employment Stabilization Board, and to be composed of the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Labor. It shall be the duty of the board to advise the President from time to time of the trend of employment and business activity and of the existence or approach of periods of business depression and unemployment in the United States or in any substantial portion thereof.

(b) The board is authorized to appoint, in accordance with the civil service laws, a director and such experts, and clerical and other assistants, and to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, and periodicals) as may be necessary for the administration of this act, and as may be provided for by the Congress from time to time. The compensation of the director and such experts and clerical and other assistants shall be fixed in accordance with the classification act of 1923, as amended.

BASIS OF ACTION OF BOARD

SEC. 4. (a) In advising the President the board shall take into consideration the volume, based upon value, of contracts awarded for construction work in the United States, or in any substantial portion thereof, during the three months' period preceding action, in comparison with the corresponding three-month periods of the two previous calendar years.

(b) The board may also take into consideration the index of employment prepared by the Department of Labor, and any other information concerning employment furnished by the Department of Labor or by any other public or private agency, and any other facts which it may consider pertinent.

PUBLIC WORKS EMERGENCY APPROPRIATION

SEC. 5. Whenever, upon recommendation of the board, the President finds that there exists, or that within the six months next following there is likely to exist, in the United States or any substantial portion thereof, a period of business depression and unemployment, he is requested to transmit to the Congress by special message, at such time and from time to time thereafter, such supplemental estimates as he deems advisable for emergency appropriations, to be expended during such period upon public works in the United States or in the area affected, in order to prevent unemployment and permit the Government to avail itself of the opportunity for speedy, efficient, and economical construction during any such period. Except as provided in this act such supplemental estimates shall conform to the provisions of the Budget and Accounting Act, 1921.

WORKS ON WHICH APPROPRIATION USED

SEC. 6. Public works emergency appropriations are authorized and shall be expended only—

(a) For carrying out the provisions of the Federal highway act, as now or hereafter amended and supplemented;

(b) For the preservation and maintenance of existing river and harbor works, and for the prosecution of such projects heretofore or hereafter authorized as may be most desirable in the interest of commerce and navigation;

(c) For prosecuting flood-control projects heretofore or hereafter authorized; and

(d) For carrying into effect the provisions of the public buildings act, approved May 25, 1926, as now or hereafter amended and supplemented, in respect of public buildings within and without the District of Columbia.

PUBLICATION OF INDEX OF EMPLOYMENT

SEC. 7. The Secretary of Labor shall prepare and publish monthly an Index of Employment, which shall indicate the condition of employment in the United States and in each substantial portion thereof.

PREPARATION OF INDEX OF EMPLOYMENT

SEC. 8. For the preparation of the Index of Employment there shall be made available to the Secretary of Labor, upon his request, statistics collected or compiled by any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government. The Secretary of Labor is further authorized to utilize, to such extent as he deems advisable, statistics collected or compiled by any State or political subdivision thereof, or by any private, industrial, commercial, banking, labor, or other association or enterprise, and to obtain such additional facts and statistics as he deems necessary for such purposes.

ACCELERATION OF EMERGENCY CONSTRUCTION

SEC. 9. For the purpose of preventing unemployment during periods of business depression and of permitting the Government to avail itself of opportunity for speedy, efficient, and economical construction during such periods, the President is requested to direct the Secretary of War, the Secretary of the Treasury, and the Secretary of Agriculture to accelerate during such periods, to such extent as is deemed practicable, the prosecution of all public works within their control.

ADVANCE PLANNING

SEC. 10. It is hereby declared to be the policy of Congress to arrange the construction of public works, so far as practicable, in such manner as will assist in the stabilization of industry and employment through the proper timing of such construction, and that to further this object there shall be advance planning of public works to be accomplished (a) in the case of river and harbor and flood-control works and projects and public building projects by means (1) of preliminary reports, made under the subsequent provisions of this act or existing law, as to the desirability of the project; (2) of annual authorizations of projects, the total estimates for which are sufficiently in excess of the annual appropriations made for the work thereon to result in uncompleted projects being available for the expenditure of public works emergency appropriations when made; and (3) of advance preparation of detailed construction plans and (b) in the case of public roads projects by means (1) of advance approval of projects in accordance with the provisions of the Federal highway act, and amendments and supplements thereof, and of this act, and (2) advance preparation of detailed construction plans.

PUBLIC-ROADS PROJECTS

SEC. 11. (a) In addition to the projects authorized to be approved under the Federal highway act, and amendments and supplements thereof, the Secretary of Agriculture is authorized to approve emergency Federal-aid road projects for the construction, reconstruction, and maintenance of Federal-aid highways, the share of the United States in the cost of which is to be paid primarily out of public works emergency appropriations made for the purpose. Such emergency projects may be approved in advance of any such appropriation but only to such extent as the Secretary of Agriculture deems advisable in order that uncompleted projects for the expenditure of money so appropriated may be immediately available at the time such appropriation is made. If the amount apportioned to the State of the public works emergency appropriation made for the purpose is insufficient to meet the share of the United States in the cost of all approved emergency projects within the State, the balance of the share of the United States shall be paid out of the amount apportioned to the State from any subsequent appropriations made for Federal-aid highways.

(b) The approval of emergency projects for roads within a State shall be deemed a contractural obligation of the Federal Government for the payment of its proportional contribution to the cost of the projects only to the extent of the amount apportioned to the State and remaining unpaid of the public works emergency appropriation made for the purpose and the subsequent appropriations made for Federal-aid highways.

(c) The provision of the Federal highway act in respect of the apportionment of Federal-aid appropriations shall not apply to public works emergency appropriations, but the Secretary of Agriculture may apportion such appropriations among all the States or in the State in the area or areas designated by Congress in such a way as may be fixed by Congress or shall in his judgment be best calculated to prevent unemployment.

(d) For the purpose of equalizing among the several States the amount of Federal funds apportioned under the Federal highway act, as amended and supplemented, and this act, the Secretary of Agriculture shall deduct any payment made to a State out of a public works emergency appropriation from the amount apportioned to the State out of any subsequent appropriation for Federal-aid highways.

(e) The Secretary of Agriculture, after making the deductions authorized by this section, shall within sixty days thereafter reapportion the amount so deducted to all the States in the same manner and on the same basis, and certify to the Secretary of the Treasury and the State highway departments in the same way as if it were being apportioned under the Federal highway act for the first time.

(f) In the event that the payment received by a State under the provisions of a public works emergency appropriation for Federal-aid highways exceeds the amount apportioned to that State out of the next succeeding appropriation for Federal-aid highways, the whole amount apportioned to that State shall be reapportioned to all the States in the manner provided in subdivision (e), and the difference between the payments so received and the amount so reapportioned shall be deducted from the amount apportioned to the State out of the next succeeding appropriation for Federal-aid highways and reapportioned in accordance with subdivision (e) and so on until the total amount so received has been thus deducted and reapportioned.

PUBLIC BUILDINGS

SEC. 12. The provisions of the public buildings act, approved May 25, 1926, shall apply to public buildings authorized under this act, except that the method of allocation prescribed therein shall not apply; but the sums appropriated for public buildings under this act shall be apportioned as Congress may provide or, if there be no such provisions, by the Secretary of the Treasury in such way as best to carry out the intent of this act and prevent unemployment in the United States or the area prescribed by Congress.

APPROPRIATIONS AUTHORIZED

SEC. 13. There are hereby authorized to be appropriated such sums as are necessary for expenditure on public works to prevent unemployment during any such period of business depression, not in excess of $150,000,000 in any one fiscal year, and such further sums as are necessary for the administration of this act.

[S. 3060, Seventy-first Congress, second session]

AN ACT To provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to promote the establishment and maintenance of a national system of public employment offices there is hereby created in the Department of Labor a bureau to be known as the United States Employment Service, at the head of which shall be a director general. The director general shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive a salary at the rate of $10,000 per annum. The Employment Service now existing in the Department of Labor is hereby abolished.

SEC. 2. The Secretary of Labor is authorized, in accordance with the civil-service laws, to appoint, and, in accordance with the classification act of 1923, as amended, to fix the compensation of a woman assistant director general who, subject to the director general, shall have general supervision of all matters relating to the obtaining of employment for women, and, in accordance with the civil-service laws, to appoint, and, in accordance with the classification act of 1923, as amended, to fix the compensation of, such other officers, employees, and assistants, and to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary to carry out the provisions of this act.

SEC. 3. (a) It shall be the province and duty of the bureau to establish and maintain a national system of employment offices for men, women, and juniors who are legally qualified to engage in gainful occupations, and, in the manner hereinafter provided, to assist in establishing and maintaining systems of public employment offices in the several States and the political subdivisions thereof. The bureau shall also assist in coordinating the public employment offices throughout the country by furnishing and publishing information as to opportunities for employment, by maintaining a system for clearing labor between the several States, by establishing and maintaining uniform standards, policies, and procedure, and by aiding in the transportation of workers to such places as may be deemed necessary, for the purpose of obtaining employment. It is hereby declared to be the policy of the Congress that the service authorized by this act shall be impartial, neutral in labor disputes, and free from political influence.

(b) Except as herein otherwise provided, the United States Employment Service shall be charged with the administration of this act, under the supervision of the Secretary of Labor. The director general is authorized to deduct from any amount appropriated for any fiscal year under the provisions of section 5 not in excess of 5 per cent thereof, which shall remain available until expended for expenses incurred in the administration of this act.

SEC. 4. Except as provided in section 10, in order to obtain the benefits of appropriations apportioned under section 5, a State shall, through its legislature, accept the provisions of this act and designate or authorize the creation of a State agency vested with all powers necessary to cooperate with the United States Employment Service under this act.

SEC. 5. (a) For the purpose of carrying out the provisions of this act there is hereby authorized to be appropriated the sum of $4,000,000 for the fiscal year ending June 30, 1931, and for each fiscal year thereafter up to and including the fiscal year ending June 30, 1934. Seventy-five per centum of the amounts appropriated under this act shall be apportioned by the director general among the several States in the proportion which their population bears to the total population of the States of the United States according to the next preceding United States census, to be available for the purpose of establishing and maintaining systems of public employment offices in the several States and the political subdivisions thereof in accordance with the provisions of this act. The balance of the amounts so appropriated shall be available (1) for administrative expenses under subdivision (b) of section 3, and (2) for expenditures as provided in section 10, or, in the discretion of the director general, for the purpose of carrying out the provisions of subdivision (a) of section 3 other than for establishing and maintaining public employment offices. Except as provided in section 10, no payment shall be made in any year out of the amount of such appropriations apportioned to any State until an equal sum has been appropriated for that year by the State, including appropriations made by local subdivisions thereof, for the purpose of maintaining public employment offices as a part of a State controlled system of public employment offices; except that the amounts so appropriated by the State shall not be less than 25 per centum of the apportionment according to population, made by the director general for such State for the current year, and in no event less than $5,000.

(b) The amounts apportioned to any State for any fiscal year shall be available for payment to and expenditure by such State, for the purposes of this act, until the close of the next succeeding fiscal year; except that amounts apportioned to any State for any fiscal year preceding the fiscal year during which is commenced the first regular session of the legislature of such State held after the enactment of this act, shall remain available for payment to and expenditure by such State until the close of the fiscal year next succeeding that in which such session is commenced. Subject to the foregoing limitations, any amount so apportioned unexpended at the end of the period during which it is available for expenditure under this act shall, within sixty days thereafter, be reapportioned for the current fiscal year, among all the States in the same manner and on the same basis, and certified to the Secretary of the Treasury and treasurers of the States in the same manner, as if it were being apportioned under this act for the first time.

SEC. 6. Within sixty days after any appropriation has been made under the authority of this act, the director general shall make the apportionment thereof as provided in section 5 and shall certify to the Secretary of the Treasury the amount estimated by him to be necessary for administering the provisions of this act, and shall certify to the Secretary of the Treasury and to the treasurer of the

several States the amount apportioned to each State for the fiscal year for which the appropriation has been made.

SEC. 7. Within sixty days after any appropriation has been made under the authority of this act, and as often thereafter while such appropriation remains available as he deems advisable, the director general shall ascertain as to each of the several States (1) whether the State has, through its legislature, accepted the provisions of this act and designated or authorized the creation of an agency to cooperate with the United States Employment Service in the administration of this act in compliance with the provisions of section 4 of this act; and (2) the amounts, if any, which have been appropriated by such State, including appropriations made by local subdivisions thereof, in compliance with the provisions of section 5 of this act. If the director general finds that a State has complied with the requirements of such sections, and if plans have been submitted and approved in compliance with the provisions of section 8 of this act, the director general shall determine the amount of the payments, if any, to which the State is entitled under the provisions of section 5, and certify such amount to the Secretary of the Treasury. Such certificate shall be sufficient authority to the Secretary of the Treasury to make payments to the State in accordance therewith.

SEC. 8. Any State desiring to receive the benefits of this act shall, by the agency designated to cooperate with the United States Employment Service, submit to the director general detailed plans for carrying out the provisions of this act within such State. If such plans are in conformity with the provisions of this act and reasonably appropriate and adequate to carry out its purposes, they shall be approved by the director general and due notice of such approval shall be given to the State agency.

SEC. 9. Each State agency cooperating with the United States Employment Service under this act shall make such reports concerning its operations and expenditures as shall be prescribed by the director general. It shall be the duty of the director general to ascertain whether the system of public employment offices maintained in each State is conducted in accordance with the rules and regulations and the standards of efficiency prescribed by the director general in accordance with the provisions of this act. The director general may revoke any existing certificates or withhold any further certificate provided for in section 7, whenever he shall determine, as to any State, that the cooperating State agency has not properly expended the moneys paid to it or the moneys herein required to be appropriated by such State, in accordance with plans approved under this act. Before any such certificate shall be revoked or withheld from any State, the director general shall give notice in writing to the State agency, stating specifically wherein the State has failed to comply with such plans. The State agency may appeal to the Secretary of Labor from the action of the director general in any such case and the Secretary of Labor may either affirm or reverse the action of the director general with such directions as he shall consider proper.

SEC. 10. During the current fiscal year and the two succeeding fiscal years the director general is authorized to expend in any State so much of the sums apportioned to such State according to population, and so much of the unapportioned balance of the appropriation made under the provisions of section 5 as he may deem necessary, as follows:

(a) In States where there is no State system of public employment offices, in establishing and maintaining a system of public employment offices under the control of the director general.

(b) In States where there is a State system of public employment offices, but where the State has not complied with the provisions of section 4, in establishing a cooperative Federal and State system of public employment offices to be maintained by such officer or board and in such manner as may be agreed upon by and between the governor of the State and the director general; except that pending the conclusion of such agreement, but for not more than one year, the director general may establish and maintain in any such State a system of public employment offices under the control of the director general.

SEC. 11. (a) The director general shall establish a Federal advisory council composed of an equal number of employers and employees for the purpose of formulating policies and discussing problems relating to unemployment, and insuring impartiality, neurtality, and freedom from political influence in solution of such problems. Members of such council shall be selected from time to time in such manner as the director general shall prescribe. The director general shall also require the organization of similar State advisory councils composed of equal numbers of employers and employees.

(b) In carrying out the provisions of this act the director general is authorized and directed to provide for the giving of notice of strikes or lockouts to applicants for employment.

(c) In carrying out the provisions of this act the director general is authorized to provide for establishing employment offices for individual occupations.

SEC. 12. The director general, with the approval of the Secretary of Labor, is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of this act.

SEC. 13. The Postmaster General is hereby authorized and directed to extend to the United States Employment Service and to the system of employment offices operated by it in conformity with the provisions of this act, and to all State employment systems which receive funds appropriated under authority of this act, and to all cooperative Federal and State employment systems operated under agreements made as provided in this act, the privilege of free transmission of official mail matter.

Dorst bill

[H. R. 8374, Seventy-first Congress, second session]

A BILL To provide for the establishment of a national employment system

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That in order to promote the establishment and maintenance of a national system of public employment offices the United States Employment Service is hereby created a bureau of the Department of Labor. There shall be a director general of such bureau, who shall be appointed by the President. There shall be appointed by the Secretary of Labor a woman assistant director general who, subject to the director general, shall have general supervision of all matters relating to the securing of employment for women, and there shall also be appointed such other assistants and employees in the District of Columbia and elsewhere as shall be necessary to carry out the purposes of this act.

SEC. 2. That it shall be the province and duty of the said bureau, under the Secretary of Labor, to establish and maintain a national system of employment offices for men, women, and juniors who are legally qualified to engage in gainful occupations; and to assist in establishing and maintaining systems of employment offices in the several States and political subdivisions thereof, and to coordinate the public employment offices throughout the country by furnishing and publishing information as to opportunities for employment, by maintaining a system for clearing labor between the several States, by establishing and maintaining uniform standards, policies, and procedure, and by assisting in the transportation of workers to such places as may be deemed necessary for the purposes of securing employment: *Provided, however*, That in the securing of employment preference shall be given in the following order:

(1) To citizens of the United States and of the State, District, or Territory in which the work is to be performed, who have been honorably discharged from the military or naval forces of the United States, and who are qualified to perform the work to which the employment relates;

(2) To citizens of the United States who are bona fide residents of the State, District, or Territory in which the work is to be performed, and who are qualified to perform the work to which the employment relates.

SEC. 3. That for the purpose of carrying out the provisions of this act there is hereby authorized to be appropriated the sum of $——— for the fiscal year ending June 30, 1930, and for each fiscal year thereafter up to and including the fiscal year ending June 30, 1932; that not less than 75 per centum of the money apporpriated under this act shall be allotted by the Secretary of Labor among the several States on the basis of their respective populations to be available for the purpose of establishing and maintaining systems of public employment offices in the several States in accordance with the provisions of this act.

SEC. 4. That the director general, with the approval of the Secretary of Labor, is hereby authorized to make rules and regulations for carrying out the provisions of this act.

SEC. 5. That this act shall take effect immediately.

[H. R. 8655, Seventy-first Congress, second session]

A BILL To provide for the establishment of a national employment system

Be it enacted by the Senate and Houes of Representatives of the United States of America in Congress assembled, That in order to promote the establishment and maintenance of a national system of public employment offices the United States employment service is hereby created a bureau of the Department of Labor. There shall be a director general of such bureau, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive a salary of $10,000 per annum. The Secretary of Labor is authorized, in accordance with the civil service laws, to appoint, and, in accordance with the classification act of 1923, as amended, to fix the compensation of a woman assistant director general who, subject to the director general, shall have general supervision of all matters relating to the securing of employment for women, and there shall also be appointed such other assistants and employees in the District of Columbia and elsewhere as shall be necessary to carry out the purposes of this act, said employees to be appointed in accordance with the civil service laws and their compensation fixed in accordance with the Classification Act of 1923, as amended.

SEC. 2. That it shall be the province and duty of the said bureau, under the direction of the Secretary of Labor, to establish and maintain a national system of employment offices for men, women, and juniors who are legally qualified to engage in gainful occupations; and to assist in establishing and maintaining systems of employment offices in the several States and political subdivisions thereof, and to coordinate the public employment offices throughout the country by furnishing and publishing information as to opportunities for employment, by maintaining a system for clearing labor between the several States, by establishing and maintaining uniform standards, policies, and procedure, and by assisting in the transportation of workers to such places as may be deemed necessary for the purposes of securing employment.

SEC. 3 (a). That for the purpose of carrying out the provisions of this act there is hereby authorized to be appropriated the sum of $2,000,000 for the fiscal year ending June 30, 1930, and $4,000,000 for each fiscal year thereafter up to and including the fiscal year ending June 30, 1934; that not less than 75 per centum of the money appropriated under this act shall be allotted by the Secretary of Labor among the several States on the basis of their respective populations to be available for the purpose of establishing and maintaining systems of public-employment offices in the several States in accordance with the provisions of this act.

(b). In carrying out the provisions of this act the director general is authorized and directed to provide for the giving of notice of strikes or lockouts to applicants for employment.

(c). In States where there is no State system of public-employment offices, the director general is authorized to maintain and establish a system of public-employment offices under the control of the director general and to expend, in such States, so much of the sums apportioned to such State according to population as he may deem necessary.

SEC. 4. That the director general, with the approval of the Secretary of Labor, is hereby authorized to make rules and regulations for carrying out the provisions of this act.

SEC. 5. That this act shall take effect immediately.

[H. R. 9560, Seventy-first Congress, second session]

BILL To provide for the advance planning and regulated construction of certain public works for the stabilization of industry, and for the prevention of unemployment during periods of business depression

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Employment stabilization act of 1930."

DEFINITIONS

SEC. 2. When used in this act—

(a) The term "board" means the Federal Employment Stabilization Board established by section 3 of this act;

(b) The term "United States," when used in a geographical sense, includes the several States and Territories and the District of Columbia;

(c) The term "public works emergency appropriation" means an appropriation made in pursuance of supplemental estimates transmitted to the Congress under the provisions of this act.

FEDERAL EMPLOYMENT STABILIZATION BOARD

SEC. 3. (a) There is hereby established a board to be known as the Federal Employment Stabilization Board, and to be composed of the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Agriculture, and the the Secretary of Labor. It shall be the duty of the board to advise the President from time to time of the trend of employment and business activity and of the existence or approach of periods of business depression and unemployment in the United States or in any substantial portion thereof.

(b) The board is authorized to appoint, in accordance with the civil service laws, a secretary and such experts, and clerical and other assistants, and to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, and periodicals) as may be necessary for the administration of this act, and as may be provided for by the Congress from time to time. The compensation of the secretary and such experts and clerical and other assistants shall be fixed in accordance with the classification act of 1923, as amended.

BASIS OF ACTION OF BOARD

SEC. 4. (a) In advising the President the board shall take into consideration the volume, based upon value, of contracts awarded for construction work in the United States, or in any subtantial portion thereof, during the three months' period preceding action, in comparison with the corresponding three-month periods of the two previous calendar years.

(b) The board may also take into consideration the index of employment prepared by the Department of Labor, and any other information concerning employment furnished by the Department of Labor or by any other public or private agency, and any other facts which it may consider pertinent.

PUBLIC WORKS EMERGENCY APPROPRIATION

SEC. 5. Whenever, upon recommendation of the board, the President finds that there exists, or that within the six months next following there is likely to exist, in the United States or any substantial portion thereof, a period of business depression and unemployment, he is requested to transmit to the Congress by special message, at such time and from time to time thereafter, such supplemental estimates as he deems advisable for emergency appropriations, to be expended during such period upon public works in the United States or in the area affected, in order to prevent unemployment and permit the Government to avail itself of the opportunity for speedy, efficient, and economical construction during any such period. Except as provided in this act, such supplemental estimates shall conform to the provisions of the Budget and Accounting act, 1921.

WORKS ON WHICH APPROPRIATION USED

SEC. 6. Public works emergency appropriations are authorized and shall be expended only—

(a) For carrying out the provisions of the Federal highway act, as now or hereafter amended and supplemented;

(b) For the preservation and maintenance of existing river and harbor works, and for the prosecution of such projects heretofore or hereafter authorized as may be most desirable in the interest of commerce and navigation;

(c) For prosecuting flood-control projects heretofore or hereafter authorized; and

(d) For carrying into effect the provisions of the public buildings act, approved May 25, 1926, as now or hereafter amended and supplemented, in respect of public buildings within and without the District of Columbia.

PUBLICATION OF INDEX OF EMPLOYMENT

SEC. 7. The Secretary of Labor shall prepare and publish monthly an Index of Employment, which shall indicate the condition of employment in the United States and in each substantial portion thereof.

PREPARATION OF INDEX OF EMPLOYMENT

SEC. 8. For the preparation of the Index of Employment there shall be made available to the Secretary of Labor, upon his request, statistics collected or compiled by any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government. The Secretary of Labor is further authorized to utilize, to such extent as he deems advisable, statistics collected or compiled by any State or political subdivision thereof, or by any private, industrial, commercial, banking, labor, or other association or enterprise, and to obtain such additional facts and statistics as he deems necessary for such purposes.

ACCELERATION OF EMERGENCY CONSTRUCTION

SEC. 9. For the purpose of preventing unemployment during periods of business depression and of permitting the Government to avail itself of opportunity for speedy, efficient, and economical construction during such periods the Secretary of War, the Secretary of the Treasury, and the Secretary of Agriculture are directed to accelerate during such periods, to such extent as is deemed practicable, the prosecution of all public works within their control.

ADVANCE PLANNING

SEC. 10. It is hereby declared to be the policy of Congress to arrange the construction of public works, so far as practicable, in such manner as will assist in the stabilization of industry and employment through the proper timing of such construction, and that to further this object there shall be advance planning and detailed preparation of public works, to be accomplished (a) in the case of river and harbor and flood-control works and projects and public-building projects by means (1) of preliminary reports, made under the subsequent provisions of this act or existing law, as to the desirability of the project; and (2) of annual authorizations of projects, the total estimates for which are sufficiently in excess of the annual appropriations made for the work thereon to result in uncompleted projects being available for the expenditure of public works emergency appropriations when made; and (b), in the case of public roads projects, by means of advance approval of projects in accordance with the provisions of the Federal highway act, and amendments and supplements thereof, and of this act.

PUBLIC-ROADS PROJECTS

SEC. 11. (a) In addition to the projects authorized to be approved under the Federal highway act, and amendments and supplements thereof, the Secretary of Agriculture is authorized to approve emergency Federal-aid road projects for the construction, reconstruction, and maintenance of Federal-aid highways, the share of the United States in the cost of which is to be paid primarily out of public works emergency appropriations made for the purpose. Such emergency projects may be approved in advance of any such appropriation, but only to such extent as the Secretary of Agriculture deems advisable in order that uncompleted projects for the expenditure of money so appropriated may be immediately available at the time such appropriation is made. If the amount apportioned to the State of the public works emergency appropriation made for the purpose is insufficient to meet the share of the United States in the cost of all approved emergency projects within the State, the balance of the share of the United States shall be paid out of the amount apportioned to the State from any subsequent appropriations made for Federal-aid highways.

(b) The approval of emergency projects for roads within a State shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution to the cost of the projects only to the extent of the amount apportioned to the State and remaining unpaid of the public works emergency appropriation made for the purpose and the subsequent appropriations made for Federal-aid highways.

(c) The provision of the Federal highway act in respect of the apportionment of Federal-aid appropriations shall not apply to public works emergency appropriations, but the Secretary of Agriculture may apportion such appropriations among all the States or in the State in the area or areas designated by Congress in such a way as may be fixed by Congress or shall in his judgment be best calculated to prevent unemployment.

(d) For the purpose of equalizing among the several States the amount of Federal funds apportioned under the Federal highway act, as amended and supplemented, and this act, the Secretary of Agricuture shall deduct any payment made to a State out of a public works emergency appropriation from the amount apportioned to the State out of any subsequent appropriation for Federal-aid highways.

(e) The Secretary of Agriculture, after making the deductions authorized by this section, shall within sixty days thereafter reapportion the amount so deducted to all the States in the same manner and on the same basis, and certify to the Secretary of the Treasury and the State highway departments in the same way as if it were being apportioned under the Federal highway act for the first time.

(f) In the event that the payment received by a State under the provisions of a public works emergency appropriation for Federal-aid highways exceeds the amount apportioned to the State out of the next succeeding appropriation for Federal-aid highways, the whole amount apportioned to that State shall be reapportioned to all the States in the manner provided in subdivision (e), and the difference between the payments so received and the amount so reapportioned shall be deducted from the amount apportioned to the State out of the next succeeding appropriation for Federal-aid highways and reapportioned in accordance with subdivision (e) and so on until the total amount so received has been thus deducted and reapportioned.

PUBLIC BUILDINGS

SEC. 12. The provisions of the public buildings act, approved May 25, 1926, shall apply to public buildings authorized under this act, except that the method of allocation prescribed therein shall not apply; but the sums appropriated for public buildings under this act shall be apportioned as Congress may provide or, if there be no such provisions, by the Secretary of the Treasury in such way as best to carry out the intent of this act and prevent unemployment in the United States or the area prescribed by Congress.

APPROPRIATIONS AUTHORIZED

SEC. 13. There are hereby authorized to be appropriated such sums as are necessary for expenditure on public works to prevent unemployment during any such period of business depression, not in excess of $150,000,000 in any one fiscal year, and such further sums as are necessary for the administration of this act.

[H. R. 11414, Seventy-first Congress, second session]

A BILL To provide for the advance planning and regulated construction of certain public works, for the stabilization of industry, and for the prevention of unemployment during periods of business depression

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Employment stabilization act of 1930."

DEFINITIONS

SEC. 2. When used in this act—

(a) The term "board" means the Federal Employment Stabilization Board established by section 3 of this act;

(b) The term "United States," when used in a geographical sense, includes the several States and Territories and the District of Columbia;

(c) The term "public works emergency appropriation" means an appropriation made in pursuance of supplemental estimates transmitted to the Congress under the provisions of this act.

FEDERAL EMPLOYMENT STABILIZATION BOARD

SEC. 3. (a) There is hereby established a board to be known as the Federal Employment Stablization Board, and to be composed of the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Labor. It shall be the duty of the board to advise the President from time to time of the trend of employment and business activity and of the existence or approach of periods of business depression and unemployment in the United States or in any substantial portion thereof.

(b) The board is authorized to appoint, in accordance with the civil service laws, a director and such experts, and clerical and other assistants, and to make

such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books of reference, and periodicals) as may be necessary for the administration of this act, and as may be provided for by the Congress from time to time. The compensation of the director and such experts and clerical and other assistants shall be fixed in accordance with the classification act of 1923, as amended.

BASIS OF ACTION OF BOARD

SEC. 4. (a) In advising the President the board shall take into consideration the volume, based upon value, of contracts awarded for construction work in the United States, or in any substantial portion thereof, during the three months' period preceding action, in comparison with the corresponding three-month periods of the two previous calendar years.

(b) The board may also take into consideration the index of employment prepared by the Department of Labor, and any other information concerning employment furnished by the Department of Labor or by any other public or private agency, and any other facts which it may consider pertinent.

PUBLIC WORKS EMERGENCY APPROPRIATION

SEC. 5. Whenever, upon recommendation of the board, the President finds that there exists, or that within the six months next following there is likely to exist, in the United States or any substantial portion thereof, a period of business depression and unemployment, he is requested to transmit to the Congress by special message, at such time and from time to time thereafter, such supplemental estimates as he deems advisable for emergency appropriations, to be expended during such period upon public works in the United States or in the area affected, in order to prevent unemployment and permit the Government to avail itself of the opportunity for speedy, efficient, and economical construction during any such period. Except as provided in this act such supplemental estimates shall conform to the provisions of the budget and accounting act, 1921.

WORKS ON WHICH APPROPRIATION USED

SEC. 6. Public works emergency appropriations are authorized and shall be expended only—

(a) For carrying out the provisions of the Federal highway act, as now or hereafter amended and supplemented;

(b) For the preservation and maintenance of existing river and harbor works, and for the prosecution of such propects heretofore or hereafter authorized as may be most desirable in the interest of commerce and navigation;

(c) For prosecuting flood-control projects heretofore or hereafter authorized; and

(d) For carrying into effect the provisions of the public buildings act, approved May 25, 1926, as now of hereafter amended and supplemented, in respect of public buildings within and without the District of Columbia.

PUBLICATION OF INDEX OF EMPLOYMENT

SEC. 7. The Secretary of Labor shall prepare and publish monthly an Index of Employment, which shall indicate the condition of employment in the United States and in each substantial portion thereof.

PREPARATION OF INDEX OF EMPLOYMENT

SEC. 8. For the preparation of the Inedx of Employment there shall be made available to the Secretary of Labor, upon his request, statistics collected or compiled by any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government. The Secretary of Labor is further authorized to utilize, to such extent as he deems advisable, statistics collected or compiled by any State or political subdivision thereof, or by any private, industrial, commercial, banking, labor, or other association or enterprise, and to obtain such additional facts and statistics as he deems necessary for such purposes.

ACCELERATION OF EMERGENCY CONSTRUCTION

SEC. 9. For the purpose of preventing enemployment during periods of business depression and of permitting the Government to avail itself of opportunity for speedy, efficient, and economical construction during such periods the President is requested to direct the Secretary of War, the Secretary of the Treasury, and the Secretary of Agriculture to accelerate during such periods, to such extent as is deemed practicable, the prosecution of all public works within their control.

ADVANCE PLANNING

SEC. 10. It is hereby declared to the policy of Congress to arrange the construction of public works, so far as practicable, in such manner as will assist in the stabilization of industry and employment through the proper timing of such construction, and that to further this object there shall be advance planning of public works to be accomplished (a) in the case of river and harbor and flood-control works and projects and public-building projects by means (1) of preliminary reports, made under the subsequent provisions of this act or existing law, as to the desirability of the project; (2) of annual authorizations of projects, the total estimates for which are sufficiently in excess of the annual appropriations made for the work thereon to result in uncompleted projects being available for the expenditure of public works emergency appropriations when made; and (3) of advance preparation of detailed construction plans and (b) in the case of public-roads projects by means (1) of advance approval of projects in accordance with the provisions of the Federal highway act, and amendments and supplements thereof, and of this act, and (2) advance preparation of detailed construction plans.

PUBLIC-ROADS PROJECTS

SEC. 11. (a) In addition to the projects authorized to be approved under the Federal highway act, and amendments and supplements thereof, the Secretary of Agriculture is authorized to approve emergency Federal-aid road projects for the construction, reconstruction, and maintenance of Federal-aid highways, the share of the United States in the cost of which is to be paid primarily out of public works emergency appropriations made for the purpose. Such emergency projects may be approved in advance of any such appropriation, but only to such extent as the Secretary of Agriculture deems advisable, in order that uncompleted projects for the expenditure of money so appropriated may be immediately available at the time such appropriation is made. If the amount apportioned to the State of the public works emergency appropriation made for the purpose is insufficient to meet the share of the United States in the cost of all approved emergency projects within the State, the balance of the share of the United States shall be paid out of the amount apportioned to the State from any subsequent appropriations made for Federal-aid highways.

(b) The approval of emergency projects for roads within a State shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution to the cost of the projects only to the extent of the amount apportioned to the State and remaining unpaid of the public works emergency appropriation made for the purpose and the subsequent appropriations made for Federal-aid highways.

(c) The provisions of the Federal highway act in respect of the apportionment of Federal-aid appropriations shall not apply to public works emergency appropriations, but the Secretary of Agriculture may approtion such appropriations among all the States or in the State in the area or areas designated by Congress in such a way as may be fixed by Congress or shall in his judgment be best calculated to prevent unemployment.

(d) For the purpose of equalizing among the several States the amount of Federal funds apportioned under the Federal highway act, as amended and supplemented, and this act, the Secretary of Agriculture shall deduct any payment made to a State out of a public works emergency appropriation from the amount apportioned to the State out of any subsequent appropriation for Federal-aid highways.

(e) The Secretary of Agriculture, after making the deductions authorized by this section, shall within 60 days thereafter reapportion the amount so deducted to all the States in the same manner and on the same basis and certify to the Secretary of the Treasury and the State highway departments in the same way as if it were being apportioned under the Federal highway act for the first time.

(f) In the event that the payment received by a State under the provisions of a public-works emergency appropriation for Federal-aid highways exceeds the

amount apportioned to that State out of the next succeeding appropriation for Federal-aid highways, the whole amount apportioned to that State shall be reapportioned to all the States in the manner provided in subdivision (e), and the difference between the payments so received and the amount so reapportioned shall be deducted from the amount apportioned to the State out of the next succeeding appropriation for Federal-aid highways and reapportioned in accordance with subdivision (e) and so on until the total amount so received has been thus deducted and reapportioned.

PUBLIC BUILDINGS

SEC. 12. The provisions of the public buildings act, approved May 25, 1926, shall apply to public buildings authorized under this act, except that the method of allocation prescribed therein shall not apply; but the sums appropriated for public buildings under this act shall be apportioned as Congress may provide or, if there be no such provisions, by the Secretary of the Treasury in such way as best to carry out the intent of this act and prevent unemployment in the United States or the area prescribed by Congress.

APPROPRIATIONS AUTHORIZED

SEC. 13. There are hereby authorized to be appropriated such sums as are necessary for expenditure on public works to prevent unemployment during any such period of business depression, not in excess of $150,000,000 in any one fiscal year, and such further sums as are necessary for the administration of this act.

[H. R. 12550, Seventy-first Congress, second session]

A BILL To provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to promote the establishment and maintenance of a national system of public employment offices there is hereby created in the Department of Labor a bureau to be known as the United States Employment Service, at the head of which shall be a director general. The director general shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive a salary at the rate of $10,000 per annum. The Employment Service now existing in the Department of Labor is hereby abolished.

SEC. 2. The Secretary of Labor is authorized, in accordance with the civil service laws, to appoint, and, in accordance with the classification act of 1923, as amended, to fix the compensation of a woman assistant director general who, subject to the director general, shall have general supervision of all matters relating to the obtaining of employment for women, and, in accordance with the civil service laws, to appoint, and, in accordance with the classification act of 1923, as amended, to fix the compensation of such other officers, employees, and assistants, and to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary to carry out the provisions of this act.

SEC. 3. (a) It shall be the province and duty of the bureau to establish and maintain a national system of employment offices for men, women, and juniors who are legally qualified to engage in gainful occupations, and, in the manner hereinafter provided, to assist in establishing and maintaining systems of public employment offices in the several States and the political subdivisions thereof. The bureau shall also assist in coordinating the public employment offices throughout the country by furnishing and publishing information as to opportunities for employment, by maintaining a system for clearing labor between the several States, by establishing and maintaining uniform standards, policies, and procedure, and by aiding in the transportation of workers to such places as may be deemed necessary for the purpose of obtaining employment. It is hereby declared to be the policy of the Congress that the service authorized by this act shall be impartial, neutral in labor disputes, and free from political influence.

(b) Except as herein otherwise provided, the United States Employment Service shall be charged with the administration of this act, under the supervision of the Secretary of Labor. The director general is authorized to deduct from any

amount appropriated for any fiscal year under the provisions of section 5 not in excess of 5 per centum thereof, which shall remain available until expended for expenses incurred in the administration of this act.

SEC. 4. Except as provided in section 10, in order to obtain the benefits of appropriations apportioned under section 5, a State shall, through its legislature, accept the provisions of this act and designate or authorize the creation of a State agency vested with all powers necessary to cooperate with the United States Employment Service under this act.

SEC. 5. (a) For the purpose of carrying out the provisions of this act there is hereby authorized to be appropriated the sum of $4,000,000 for the fiscal year ending June 30, 1931, and for each fiscal year thereafter up to and including the fiscal year ending June 30, 1934. Seventy-five per centum of the amounts appropriated under this act shall be apportioned by the director general among the several States in the proportion which their population bears to the total population of the States of the United States according to the next preceding United States census, to be available for the purpose of establishing and maintaining systems of public employment offices in the several States and the political subdivisions thereof in accordance with the provisions of this act. The balance of the amounts so appropriated shall be available (1) for administrative expenses under subdivision (b) of section 3, and (2) for expenditure as provided in section 10, or, in the discretion of the director general, for the purpose of carrying out the provisions of subdivision (a) of section 3 other than for establishing and maintaining public employment offices. Except as provided in section 10, no payment shall be made in any year out of the amount of such appropriations apportioned to any State until an equal sum has been appropriated for that year by the State, including appropriations made by local subdivisions thereof, for the purpose of maintaining public employment offices as a part of a State-controlled system of public employment offices; except that the amounts so appropriated by the State shall not be less than 25 per centum of the apportionment according to population, made by the director general for such State for the current year, and in no event less than $5,000.

(b) The amounts apportioned to any State for any fiscal year shall be available for payment to and expenditure by such State, for the purposes of this act, until the close of the next succeeding fiscal year; except that amounts apportioned to any State for any fiscal year preceding the fiscal year during which is commenced the first regular session of the legislature of such State held after the enactment of this act, shall remain available for payment to and expenditure by such State until the close of the fiscal year next succeeding that in which such session is commenced. Subject to the foregoing limitations, any amount so apportioned unexpended at the end of the period during which it is available for expenditure under this act shall, within sixty days thereafter, be reapportioned for the current fiscal year, among all the States in the same manner and on the same basis, and certified to the Secretary of the Treasury and treasurers of the States in the same manner, as if it were being apportioned under this act for the first time.

SEC. 6. Within sixty days after any appropriation has been made under the authority of this act, the director general shall make the apportionment thereof as provided in section 5 and shall certify to the Secretary of the Treasury the amount estimated by him to be necessary for administering the provisions of this act, and shall certify to the Secretary of the Treasury and to the treasurers of the several States the amount apportioned to each State for the fiscal year for which the appropriation has been made.

SEC. 7. Within sixty days after any appropriation has been made under the authority of this act, and as often thereafter while such appropriation remains available as he deems advisable, the director general shall ascertain as to each of the several States (1) whether the State has through its legislature, accepted the provisions of this act and designated or authorized the creation of an agency to cooperate with the United States Employment Service in the administration of this act in compliance with the provisions of section 4 of this act; and (2) the amounts, if any, which have been appropriated by such State, including appropriations made by local subdivisions hereof, in compliance with the provisions of section 5 of this act. If the director general finds that a State has complied with the requirements of such sections, and if plans have been submitted and approved in compliance with the provisions of section 8 of this act, the director general shall determine the amount of the payments, if any, to which the State is entitled under the provisions of section 5, and certify such amount to the Secretary of the Treasury. Such certificate shall be sufficient authority to the Secretary of the Treasury to make payments to the State in accordance therewith.

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SEC. 8. Any State desiring to receive the benefits of this Act shall, by the agency designated to cooperate with the United States Employment Service, submit to the director general detailed plans for carrying out the provisions of this act within such State. If such plans are in conformity with the provision of this act and reasonably appropriate and adequate to carry out its purposes, they shall be approved by the director general and due notice of such approval shall be given to the State agency.

SEC. 9. Each State agency cooperating with the United States Employment Service under this act shall make such reports concerning its operations and expenditures as shall be prescribed by the director general. It shall be the duty of the director general to ascertain whether the system of public employment offices maintained in each State is conducted in accordance with the rules and regulations and the standards of efficiency prescribed by the director general in accordance with the provisions of this act. The director general may revoke any existing certificates or withhold any further certificate provided for in section 7, whenever he shall determine, as to any State, that the cooperating State agency has not properly expended the moneys paid to it or the moneys herein required to be appropriated by such State, in accordance with plans approved under this act. Before any such certificate shall be revoked or withheld from any State, the director general shall give notice in writing to the State agency, stating specifically wherein the State has failed to comply with such plans. The State agency may appeal to the Secretary of Labor from the action of the director general in any such case and the Secretary of Labor may either affirm or reverse the action of the director general with such directions as he shall consider proper.

SEC. 10. During the current fiscal year and the two succeeding fiscal years the director general is authorized to expend in any State so much of the sums apportioned to such State according to population, and so much of the unapportioned balance of the appropriation made under the provisions of section 5 as he may deem necessary, as follows:

(a) In States where there is no State system of public employment offices, in establishing and maintaining a system of public employment offices under the control of the director general.

(b) In States where there is a State system of public employment offices, but where the State has not complied with the provisions of section 4, in establishing a cooperative Federal and State system of public employment offices to be maintained by such officer or board and in such manner as may be agreed upon by and between the governor of the State and the director general; except that pending the conclusion of such agreement, but for not more than one year, the director general may establish and maintain in any such State a system of public employment offices under the control of the director general.

SEC. 11. (a) The director general shall establish a Federal advisory council composed of an equal number of employers and employees for the purpose of formulating policies and discussing problems relating to unemployment, and insuring impartiality, neutrality, and freedom from political influence in solution of such problems. Members of such council shall be selected from time to time in such manner as the director general shall prescribe. The director general shall also require the organization of similar State advisory councils composed of equal numbers of employers and employees.

(b) In carrying out the provisions of this act the director general is authorized and directed to provide for the giving of notice of strikes or lockouts to applicants for employment.

(c) In carrying out the provisions of this act the director general is authorized to provide for establishing employment offices for individual occupations.

SEC. 12. The director general, with the approval of the Secretary of Labor, is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of this act.

SEC. 13. The Postmaster General is hereby authorized and directed to extend to the United States Employment Service and to the system of employment offices operated by it in conformity with the provisions of this act, and to all State employment systems which receive funds appropriated under authority of this act, and to all cooperative Federal and State employment systems, operated under agreements made as provided in this act, the privilege of free transmission of official mail matter.

[H. R. 12551, Seventy-first Congress, second session]

A BILL To provide for the advance planning and regulated construction of certain public works, for the stabilization of industry, and for the prevention of unemployment during periods of business depression

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Employment stabilization act of 1930."

DEFINITIONS

SEC. 2. When used in this act—

(a) The term "board" means the Federal Employment Stabilization Board established by section 3 of this act;

(b) The term "United States," when used in a geographical sense, includes the several States and Territories and the District of Columbia;

(c) The term "public works emergency appropriation" means an appropriation made in pursuance of supplemental estimates transmitted to the Congress under the provisions of this act.

FEDERAL EMPLOYMENT STABILIZATION BOARD

SEC. 3. (a) There is hereby established a board to be known as the Federal Employment Stabilization Board, and to be composed of the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Labor. It shall be the duty of the board to advise the President from time to time of the trend of employment and business activity and of the existence or approach of periods of business depression and unemployment in the United States or in any substantial portion thereof.

(b) The board is authorized to appoint, in accordance with the civil service laws, a director and such experts, and clerical and other assistants, and to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, and periodicals) as may be necessary for the administration of this act, and as may be provided for by the Congress from time to time. The compensation of the director and such experts and clerical and other assistants shall be fixed in accordance with the classification act of 1923, as amended.

BASIS OF ACTION OF BOARD

SEC. 4. (a) In advising the President the board shall take into consideration the volume, based upon value, of contracts awarded for construction work in the United States, or in any substantial portion thereof, during the three months' period preceding action, in comparison with the corresponding three-month periods of the two previous calendar years.

(b) The board may also take into consideration the index of employment prepared by the Department of Labor, and any other information concerning employment furnished by the Department of Labor or by any other public or private agency, and any other facts which it may consider pertinent.

PUBLIC WORKS EMERGENCY APPROPRIATION

SEC. 5. Whenever, upon recommendation of the board, the President finds that there exists, or that within the six months next following there is likely to exist, in the United States or any substantial portion thereof, a period of business depression and unemployment, he is requested to transmit to the Congress by special message, at such time and from time to time thereafter, such supplemental estimates as he deems advisable for emergency appropriations, to be expended during such period upon public works in the United States or in the area affected, in order to prevent unemployment and permit the Government to avail itself of the opportunity for speedy, efficient, and economical construction during any such period. Except as provided in this act such supplemental estimates shall conform to the provisions of the Budget and Accounting Act, 1921.

WORKS ON WHICH APPROPRIATION USED

SEC. 6. Public works emergency appropriations are authorized and shall be expended only—

(a) For carrying out the provisions of the Federal highway act, as now or hereafter amended and supplemented;

(b) For the preservation and maintenance of existing river and harbor works, and for the prosecution of such projects heretofore or hereafter authorized as may be most desirable in the interest of commerce and navigation:

(c) For prosecuting flood-control projects heretofore or hereafter authorized; and

(d) For carrying into effect the provisions of the public buildings act, approved May 25, 1926, as now or hereafter amended and supplemented, in respect of public buildings within and without the District of Columbia.

PUBLICATION OF INDEX OF EMPLOYMENT

SEC. 7. The Secretary of Labor shall prepare and publish monthly an Index of Employment, which shall indicate the condition of employment in the United States and in each substantial portion thereof.

PREPARATION OF INDEX OF EMPLOYMENT

SEC. 8. For the preparation of the Index of Employment there shall be made available to the Secretary of Labor, upon his request, statistics collected or compiled by any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government. The Secretary of Labor is further authorized to utilize, to such extent as he deems advisable, statistics collected or compiled by any State or political subdivision thereof, or by any private, industrial, commercial, banking, labor, or other association or enterprise, and to obtain such additional facts and statistics as he deems necessary for such purposes.

ACCELERATION OF EMERGENCY CONSTRUCTION

SEC. 9. For the purpose of preventing unemployment during periods of business depression and of permitting the Government to avail itself of opportunity for speedy, efficient, and economical construction during such periods the President is requested to direct the Secretary of War, the Secretary of the Treasury, and the Secretary of Agriculture to accelerate during such periods, to such extent as is deemed practicable, the prosecution of all public works within their control.

ADVANCE PLANNING

SEC. 10. It is hereby declared to be the policy of Congress to arrange the construction of public works, so far as practicable, in such manner as will assist in the stabilization of industry and employment through the proper timing of such construction, and that to further this object there shall be advance planning of public works to be accomplished (a) in the case of river and harbor and flood-control works and projects and public-building projects by means (1) of preliminary reports, made under the subsequent provisions of this act or existing law, as to the desirability of the project; (2) of annual authorizations of projects, the total estimates for which are sufficiently in excess of the annual appropriations made for the work thereon to result in uncompleted projects being available for the expenditure of public works emergency appropriations when made; and (3) of advance preparation of detailed construction plans and (b) in the case of public-roads projects by means (1) of advance approval of projects in accordance with the provisions of the Federal highway act, and amendments and supplements thereof, and of this act, and (2) advance preparation of detailed construction plans.

PUBLIC-ROADS PROJECTS

SEC. 11. (a) In addition to the projects authorized to be approved under the Federal highway act, and amendments and supplements thereof, the Secretary of Agriculture is authorized to approve emergency Federal-aid road projects for the construction, reconstruction, and maintenance of Federal-aid highways, the share of the United States in the cost of which is to be paid primarily out of public works emergency appropriations made for the purpose. Such emergency projects may be approved in advance of any such appropriation but only to such extent as the Secretary of Agriculture deems advisable in order that uncompleted projects for the expenditure of money so appropriated may be immediately available at the time such appropriation is made. If the amount apportioned to the State of the public works emergency appropriation made for the purpose is insufficient to meet the share of the United States in the cost of all approved emergency projects within the State, the balance of the share of the United States shall be paid out of the amount apportioned to the State from any subsequent appropriations made for Federal-aid highways.

(b) The approval of emergency projects for roads within a State shall be deemed a contractural obligation of the Federal Government for the payment of its proportional contribution to the cost of the projects only to the extent of the amount apportioned to the State and remaining unpaid of the public works emergency appropriation made for the purpose and the subsequent appropriations made for Federal-aid highways.

(c) The provision of the Federal highway act in respect of the apportionemnt of Federal-aid appropriations shall not apply to public works emergency appropriations, but the Secretary of Agriculture may apportion such appropriations among all the States or in the State in the area or areas deisgnated by Congress in scuh a way as may be fixed by Congress or shall in his judgment be best calculated to prevent unemployment.

(d) For the purpose of equalizing among the several States the amount of Federal funds apportioned under the Federal highway act, as amended and supplemented, and this act, the Secretary of Agriculture shall deduct any payment made to a State out of a public works emergency appropriation from the amount apportioned to the State out of any subsequent appropriation for Federal-aid highways.

(e) The Secretary of Agriculture, after making the deductions authorized by this section, shall within sixty days thereafter reapportion the amount so deducted to all the States in the same manner and on the same basis, and certify to the Secretary of the Treasury and the State highway departments in the same way as if it were being apportioned under the Federal highway act for the first time.

(f) In the event that the payment received by a State under the provisions of a public works emergency appropriation for Federal-aid highways exceeds the amount apportioned to that State out of the next succeeding appropriation for Federal-aid highways, the whole amount apportioned to that State shall be reapportioned to all the States in the manner provided in subdivision (e), and the difference between the payments so received and the amount so reapportioned shall be deducted from the amount apportioned to the State out of the next succeeding appropriation for Federal-aid highways and reapportioned in accordance with subdivision (e) and so on until the total amount so received has been thus deducted and reapportioned.

PUBLIC BUILDINGS

SEC. 12. The provisions of the public buildings act, approved May 25, 1926, shall apply to public buildings authorized under this act, except that the method of allocation prescribed therein shall not apply; but the sums appropriated for public buildings under this act shall be apportioned as Congress may provide or, if there be no such provisions, by the Secretary of the Treasury in such way as best to carry out the intent of this act and prevent unemployment in the United States or the area prescribed by Congress.

APPROPRIATIONS AUTHORIZED

SEC. 13. There are hereby authorized to be appropriated such sums as are necessary for expenditure on public works to prevent unemployment during any such period of business depression, not in excess of $150,000,000 in any one fiscal year, and such further sums as are necessary for the administration of this act.

The CHAIRMAN. Senator Wagner is present. Are you in charge of the proponents of the bills, Senator?

Senator WAGNER. I am the proponent of the bills under consideration and therefore I will take charge, if I may, and introduce the speakers in favor of this legislation.

The CHAIRMAN. Very well, Senator.

STATEMENT OF HON. ROBERT F. WAGNER, A SENATOR FROM THE STATE OF NEW YORK

Senator WAGNER. Mr. Chairman and gentlemen of the committee, I want to express my gratitude to the committee for this opportunity to present our views. I am not going to be so ungracious as to address

myself to these bills, because of the number of very distinguished citizens who have come here from distant places and who are very much interested in this subject; who have made a special study of it and who are very much concerned with the future of our country if some effort is not made to solve this very serious problem.

The CHAIRMAN. Senator, may I suggest that the object sought to be attained is a most excellent one. Every one will concur in the advisability of doing anything that may relieve the unemployment in our country. The question that the committee, I think, would specially like to have you address yourselves to is with reference to the form of the legislation; the relations it may have to the Constitution of the country, and whether or not regulation of this kind belongs to the States or can properly be mingled with Federal legislation. The main purpose of the legislation I believe every member of the committee is sympathetic toward, but that is the side of it on which the committee would like englightenment, I am sure.

Senator WAGNER. I think before we get through we will convince any open-minded Congressman that the proposals are a step in the direction of solving the question. I do not think there are any practical or legal difficulties in the way of the carrying out of the proposals. However, I think that will come up as we discuss the question.

The CHAIRMAN. Yes.

Senator WAGNER. I should like to present first Dr. Henry A. Atkinson, president of the Church Peace Union, who desires to present a petition on behalf of a group of very distinguished citizens in favor of this legislation.

Mr. MICHENER. Before we start, Mr. Chairman, may I state this? I am compelled to go to attend a meeting of the Rules Committee, shortly. I do not want to appear to be discourteous. I shall read with much interest all the evidence presented in this hearing.

Mr. LAGUARDIA. We may need a friend on the Rules Committee on these bills.

Mr. TUCKER. Mr. Chairman, I am obliged to leave at 12 o'clock.

Mr. JONAS. Mr. Chairman, so am I; I am sorry.

The CHAIRMAN. Of course, if the gentlemen have other work, we can not interfere. They say that duties never conflict, so the gentlemen will determine which is their duty and govern themselves accordingly.

Senator WAGNER. Will you hear Doctor Atkinson now?

The CHAIRMAN. Yes, sir.

STATEMENT OF DR. HENRY A. ATKINSON, GENERAL SECRETARY CHURCH UNION AND WORLD ALLIANCE, NEW YORK CITY

Doctor ATKINSON. Mr. Chairman and gentlemen, while it is true that I do represent this church organization group, I come, not in the official capacity of that organization, but because of our interest in this wider question, which is truly a national issue and is rapidly becoming a world issue.

A group of us in New York discussing this question formed a little committee and asked a larger group to cooperate with us in preparing a petition, to try out, to see what the attitude of a still larger number of people would be upon this question. We prepared the petition and sent it out to some 1,800 people, representatives of the churches, of the schools, and the colleges, and of business life. We had about an equal number of people from all of these various walks of life, so that our list embraced a cross-section of our common life.

Each person addressed held a more or less important position. That letter went out the middle of last week, and accompanying it was a card together with the petition. Up to the present time we have received—that is inside of a week—nearly one thousand signatures to that, and not one person who was addressed has written in any criticism of these bills, or any refusal to sign.

I have the honor to present to you, Mr. Chairman, and to your committee, this petition which has as its purpose the advancing of these three bills that are under consideration.

The petition is as follows:

Petition to President of the United States, Chairman of the Judiciary Committee, and other Members of the House of Representatives, Washington, D. C.:

We, the undersigned, respectfully urge the passage by the House of Representatives of the three bills relating to unemployment introduced by Senator Wagner and already passed by the Senate; namely——

The CHAIRMAN. Which three bills have you reference to?

Doctor ATKINSON. The three bills are given. [Reading:]

Senate bill 3059—advance planning of public works—to provide the systematic planning of public works by Federal Government, and the means which by new construction may be promptly undertaken in periods of unemployment.

The CHAIRMAN. That is Senate bill 3059?

Doctor ATKINSON. Yes, sir. [Reading:]

Senate bill 3060—Federal-State employment bureaus—to establish an efficient public employment service through Federal-State cooperation, with competent management and adequate support. Prevention and relief of unemployment demands the shortening of the period between jobs.

The CHAIRMAN. We have not that. That has not been passed by the Senate as yet.

Senator WAGNER. Only two came over here. The other has already been reported by a committee, as I understand it.

Doctor ATKINSON. We included three in our petition. [Reading:]

Senate bill 3061—better employment statistics.

To authorize the collection of more adequate information by the Federal Bureau of Labor Statistics. Accurate and timely statistics of unemployment trends are essential to plans for stabilization, both public and private.

In 1921 Mr. Hoover, as chairman of the President's conference on unemployment, made this statement:

"There is no economic failure so terrible in its import as that of a country possessing a surplus of every necessity of life in which numbers, willing and anxious to work, are deprived of these necessities. It simply can not be if our moral and economic system is to survive * * *.

"What our people wish is the opportunity to earn their daily bread, and surely in a country with its warehouses bursting with surpluses of food, of clothing, with its mines capable of indefinite production of fuel, with sufficient housing for comfort and health, we possess the intelligence to find a solution. Without it our whole system is open to serious charges of failure."

We fully agree with this statement. We are convinced, moreover, that a partial solution of the problem of unemployment has already been found in the three bills which have been passed by the Senate. They are essential parts of a sound, unified program of action. The principles involved in these bills have been subjected to rigid criticism for many years and have been very widely indorsed by economists, business men, bankers, and social workers in all parts of the country. It would be inexcusable for this country to go through another winter—possibly another winter rife with all the miseries, unrest, and crime that go with involuntary unemployment—without taking the moderate and soundly con-

ceived measures of prevention for which provision is made in the three Wagner bills.

That is signed by something like 900 men and women, with their names and addresses given here.

I would like to submit this to your committee as our contribution. We believe firmly these bill are sound in principle, that they are simple and mark the minimum of what our nation should be called upon to do in this serious situation at this time.

Mr. LA GUARDIA. From whom was that quotation?

Doctor ATKINSON. From President Hoover.

The CHAIRMAN. The committee will receive the petition.

Senator WAGNER. Mr. Chairman, I would ask the committee to hear the President of the American Federation of Labor, Mr. William Green.

STATEMENT OF MR. WILLIAM GREEN, PRESIDENT OF THE AMERICAN FEDERATION OF LABOR

Mr. GREEN. Mr. Chairman and gentlemen of the committee:

I am sure I will not be regarded as being presumptuous if I might state, just in the beginning of my remarks, that in my opinion the committee is now considering what I regard as the most serious employment and economic problem now confronting the American people. It is very significant that the Congress of the United States is now in session when the country is confronted by a most serious social, economic, and industrial condition.

This situation became serious about one year ago. It has become increasingly serious ever since and it is a constant menace to the peace and prosperity of our country.

It is inconceivable that Congress would adjourn without enacting some legislation which would have for its purpose the relief of this very serious situation.

These bills proposed are in my judgment very conservative. They provide in a most constructive, practical and conservative way, a remedy for dealing with many phases of this unemployment problem and American labor hopes, sincerely hopes, that the Congress of the United States will enact all these measures into law.

It would be most disappointing if the Congress adjourns without at least making this gesture as proposed in these measures. I am here as a representative of the American Federation of Labor to give our unqualified, unreserved support to each of these three measures and if I might appeal to the committee, I would like to do so, that you give this your most serious and favorable consideration, and that you might do all within your power to secure the enactment of these measures by the House of Representatives.

The two bills pending are Senate bills 3059 and 3060. The one deals with better planning in the expenditure of public funds for Government construction purposes.

The other provides for the setting up of Government employment agencies in order to assist workingmen who may be out of work, in finding and securing employment.

I can not believe that there is any substantial opposition to Senate bill 3059, because it, for the first time, endeavors to make practical and operative, a plan that has been almost universally favored by economists, by those who have given the matter study, by labor, by the President of the United States, and by outstanding men and women in public life.

Objection has been raised to Senate bill 3060. It has been asserted that this bill transgresses upon the rights of the States, that it is an invasion on the part of the Federal Government upon the constitutional rights of the States.

My good friend, Mr. Emery, representing the Manufactuers' Association, filed a brief in which he dealt with the matter in a legal way, pointing out the legal objections that the Manufacturers' Association raised in opposition to this measure.

The distinguished Senator from Connecticut, Mr. Bingham, in a radio address the other evening, followed the same line of argument. He opposed the measure on the ground that it was unconstitutional, that it interfered with the police power of the States, that it was a transgression on the part of the Federal Government upon the rights of the States; an argument that was purely legal.

No reference was made by the Senator, nor by Mr. Emery, to the human equation, to the great problem of unemployment, to the fact that the man was seeking work and could not find work and there was no Government agency created for the purpose of assisting him to find work.

Imagine a cold, legal argument of that kind appealing to a man out of work, seeking employment, looking to some source, to some help and finding none.

In the city of Detroit the unemployment situation has become acute. The men are sitting in the parks all day long and all night long, hundreds and thousands of them, muttering to themselves, out of work, seeking work. The same is true in the city of Chicago. It is not quite as bad in the city of New York, although it is very bad. Los Angeles, St. Louis—all the larger cities of the country—thousands of men sitting in the parks. Their numbers are daily increasing. Then to offer to these men who are trying to find a place where they may seek and secure employment, a cold legal argument in opposition to the only gesture that has been made thus far to assist and help them.

Now, because of that argument offered by my distinguished friend, Mr. Emery, whose judgment I respect very much, I called upon our attorney, an eminent attorney, to prepare a legal answer to the constitutional points raised, and with your permission, Mr. Chairman, I wish to submit this legal answer to the points raised by Mr. Emery and by Senator Bingham.

This refers to Senate bill 3060.

Mr. TUCKER. May I inquire, Mr. Green, whether Mr. Emery or Senator Bingham made any objections to Senate bill 3059?

Mr. GREEN. Not that I know of. There may be objections, but I have not heard. There was no objection raised, as I recall, by Mr. Emery in the brief he filed. That brief referred to Senate bill 3060.

Mr. CELLER. Mr. Emery is present and he can answer.

Mr. EMERY. We not only have no objection to the other two bills, one of which is before this committee, and one of which is before another committee, but we approve them. Bill 3060 is the only one to which we offer criticism.

Mr. GREEN. That was my impression of their attitude, of the attitude of Mr. Emery, representing the Manufacturers' Association. It is because of their strong opposition to Senate bill 3060 that I am dwelling particularly upon that measure.

CONSTITUTIONALITY OF SENATE BILL 3060

The above mentioned bill, now under consideration by this committee, has two aspects, one sociological and the other legal or constitutional.

The two principal attacks upon the bill have been made by Senator Bingham in a public address on June 7, 1930, a summary of which address is to be found in The United States Daily of Washington, D. C., June 9, 1930; and the other is a brief filed by the National Association of Manufacturers with the Senate Committee on Commerce.

Senator Bingham attacks the bill on four principal grounds, namely:

First. Because it seeks to seduce or bribe the States to surrender a vital power of self-government, etc.

Second. Because it proceeds to coerce the State into acceptance of assistance from the United States and dominant Federal control.

Third. That the policy of the bill is in contradiction of the recommendations of the President's conference of unemployment of 1921.

Fourth. That the bill is in contradiction of the recommendations of the representative conference on unemployment and undertakes to compel rather than to persuade the cooperation of the States.

Further Senator Bingham is quoted as saying:

> We are continually trespassing upon the rights of the States, and are centralizing the authority that belongs to them, in agencies of the National Government.

In its brief above referred to, the National Association of Manufacturers attacks the bill on some of the grounds stated by Senator Bingham but principally upon the ground that the bill is unconstitutional.

The statements of opposition voiced by Senator Bingham and others against the necessity of a centralized employment system, so far as the sociological phase of the bill is concerned and so far as relates to the necessity and demand for the enactment of the bill, appear to be fully answered by the testimony of Senator Wagner and others who appeared before the Senate Committee on Commerce on March 18 and April 1, 1930, together with the statistics contained in the digest filed by Senator Wagner in connection with his testimony before the Senate Committee; and in the public address of Senator Wagner, printed in the Congressional Record of May 27, 1930; as well as in the memorandum of Senator Wagner in opposition to the above mentioned brief of the National Manufacturers' Association.

It, therefore, remains only to discuss the constitutional questions raised by and the cases cited in the brief of the National Manufacturers' Association, and to supplement the authorities cited in the last mentioned memorandum of Senator Wagner, who cites, in support of the constitutionality of the bill, the following:

McGhee *v.* Mathis (4 Wall. 143–153); Federal Aid Legislation, by Prof. Charles K. Burdick (8 Cornell Law Quarterly); and Spending Power of Congress, by Prof. Edward S. Corwin (36 Harvard Law Review 548).

In considering the bill, to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes, it is important to ascertain:

First. Whether the employment situation is a question of national importance.

Second. Whether the employment situation, if found to be of national importance, is such as to justify and warrant legislation by Congress to establish an agency having for its purpose the bringing about of stabilized employment and to aid workers in obtaining employment.

Third. Whether or not such legislation is constitutional.

That the employment situation is a matter of national importance is clear when we consider the situation now existing in England and the continental countries, the vast numbers of the unemployed in those countries, the lengths to which England has been compelled to go in an endeavor to provide for the existing conditions, and the vast amount of money she has been compelled to appropriate and expend in an endeavor to ameliorate the circumstances of the unemployed.

It is not necessary to cite any facts to stress the importance of this question to the United States and the States, and the necessity and demand for remedial legislation, other than those set out in the testimony before the Senate committee and the public address and memorandum of Senator Wagner, above referred to.

It must be admitted that the employment situation is one of national importance. Conditions of to-day have materially changed from those of years ago, and the employee can no longer limit himself to any one city, country, or State in seeking work for his livelihood, but must, if he is to secure employment, look, from time to time, to the country as a whole and ascertain in what particular part of the country he can find employment.

The individual States have not undertaken to collaborate with their sister States and with the Federal Government to such an extent as to bring about a proper coordination for obtaining the best results from a national aspect. To accomplish this end there must be some center—that is, there must be some clearing house—and the best and only way to secure this is by Federal legislation establishing a Federal agency which shall cooperate with and aid the States in the endeavor to solve the all-important question of unemployment, so far as the individual States are willing to cooperate through their own legislatures.

The importance of the question of employment is admitted in the brief of the National Association of Manufacturers filed in opposition to the Senate bill 3060 and above referred to. This brief states, page 1, that the association and its members are "vitally interested in employment problems, and, individually and in cooperation, are continually engaged in the study and exchange of information and experience for the purpose of securing a better regularization of employment."

The brief, therefore, concedes that the study of employment problems and the exchange of information and experience upon these

problems are of importance. Can there be a more effective way of studying these problems and disseminating information and experience upon the same than by the United States Employment Service provided for in Senate bill 3060?

The above mentioned brief of the National Manufacturers' Association contends (pp. 4 and 5) that the proposed act is unconstitutional. To support this contention the cases of Brazee *f.* Mich (241 U. S. 340); Adams *v.* Tanner (244 U. S. 594); Ribnik *v.* McBride (277 U. S. 354); Frothingham *v.* Mellon and Mass. *v.* Mellon, (262 U. S. 447); Chicago *v.* Tranbarger (238 U. S. 77); and Bailey *v.* Drexel Furniture Co. (259 U. S. 20), are cited.

In the case of Brazee *v.* Michigan, Brazee procured a license to conduct an employment agency in Detroit under act 301, Public Acts of Michigan 1913, and was thereafter convicted upon a charge of violating its provisions by sending one seeking employment to an employer who had not applied for help. Brezee claimed the Michigan statute was invalid because it conflicted with both the State and Federal Constitutions.

The Supreme Court of Michigan sustained the Michigan Statute and the Supreme Court of the United States held that a State may require licenses for employment agencies and prescribe reasonable regulation in respect to them, to be enforced cacording to the legal discretion of a commissioner. The judgment of the lower court was affirmed and the constitutionality of the act with respect to the sections in question was upheld. The court did state that the provisions of the act in respect of fees were "plainly mischievous". The act in question in no way attempts to regulate private employment agencies nor to prescribe fees that the agency may charge.

This case is in fact an authority to the effect that Congress has the power to legislate on the question.

Another case cited in the brief of the association is Ribnik *v.* McBride (277 U. S. 354). The State of New Jersey passed an act to regulate employment agencies, which act required a license and also required that the applicant file with the Commissioner of Labor a schedule of fees. A schedule of proposed fees was filed and the commissioner refused to grant a license upon the sole ground that the fees set out in the schedule were excessive. The question of the constitutionality of the act was involved. The Supreme Court of the United States, reversing the Court of Errors and Appeals of New Jersey, held that the provision regulating fees of private employment agencies was unconstitutional; ruling that the business of an employment agency is not affected with a public interest so as to enable the State to fix the charges to be made for the service rendered.

Mr. Justice Sanford concurred with the majority on the ground that he could not distinguish an earlier decision (273 U. S. 418); and Mr. Justice Stone delivered a vigorous dissenting opinion in which Mr. Justice Holmes and Mr. Justice Brandeis joined.

The present bill contains no similar provision, and there is not a word in the decision of the Supreme Court which would in any way indicate that Congress did not have the power to establish a Federal employment agency.

Adams *v.* Tanner (244 U. S. 594), is also cited in the brief of the association as an authority in support of its contention that the proposed act is unconstitutional. Appellants conducted in Spokane well established employment agencies for securing employment for patrons

who paid fees therefor. An act by the State of Washington was passed prohibiting charging employes fees for such service. Appellants filed a bill in equity in the United States District Court to restrain the enforcement of the act alleging it to be unconstitutional. The Supreme Court, on appeal, held the act violated the fourteenth amendment. The sole ground upon which the court based its conclusion was that the State did not have the power to prohibit private employment agencies from charging an employee a fee.

This question is not involved in the proposed legislation, and the case does not in any way suggest that such legislation as is now under consideration would be unconstitutional.

In the last mentioned case Mr. Justice Brandeis delivered a very strong and illuminating dissenting opinion in which Mr. Justice Holmes and Mr. Justice Clarke concurred. Mr. Justice McKenna also dissented.

Mr. Justice Brandeis reviewed the evils of private employment bureaus, the necessity of aid in solving the employment question by the Federal Government and reviewed the Federal legislation having for its purpose the solution of the larger problems of unemployment. He referred to the immigration act of February 20, 1907 (34 Stat. 898), which created within the Bureau of Immigration and Naturalization a division of information charged with the duty of promoting "a beneficial distribution of aliens." The services rendered by this division included, among others, some commonly performed by employment agencies; it undertook to place aliens in positions of employment but its operations were national in scope. He also referred to the Act of March 4, 1913, creating the Department of Labor. which Act resulted in the transfer of the Bureau of Immigration, including the division of information, to that Department (37 Stat. 736).

Mr. Justice Brandeis stated, page 607:

> By this transfer the scope of the division's work was enlarged to correspond with the broad powers of the Labor Department. These were declared by Congress to be "to foster, promote and develop the welfare of the wage earners of the United States, to improve their working conditions and to advance their opportunities for profitable employment."

The underlying principle of the sections of the above-mentioned Acts is the same as the underlying principle of the proposed legislation, the only difference being that the proposed legislation affords a greater opportunity for service by the Federal Government in cooperation with the States.

The question of the constitutionality of legislation along the lines of the pending bill was not involved in the case; but the dissenting opinion of Mr. Justice Brandeis apparently anticipated further progress in legislation of this type and clearly and emphatically shows that such legislation is constitutional.

In the case of Chicago & A. R. R. Co. *v.* Tranbarger (238 U. S. 77), cited in the brief of the association, the Supreme Court had under consideration a statute of Missouri requiring railroads to open drains across and through its right of way and road bed so as to form proper drainage. The property owner sued the railroad company for damages growing out of its failure to comply with this statute. The railroad defended upon the ground that the law was ex post facto and also a violation of the provisions of the 14th amendment. The

Supreme Court of the United States affirmed the Supreme Court of Missouri, holding the Act to be valid and constitutional, stating the answer to the claim that the law was ex post facto to be that the law is not retroactive but only becomes effective within three months after its passage. As to the constitutional question, the Supreme Court held that the State had the right under its police power to enact such legislation.

The question before the court in that case is totally different from any of the questions presented in the proposed legislation and certainly is not an authority to support the unconstitutionality of the pending bill.

Not a single case cited in the brief supports its contention, several of the cases, as above pointed out, and especially the Frothingham case, infra, show that the proposed legislation is constitutional.

Commonwealth of Massachusetts *v.* Mellon and Frothingham *v.* Mellon (262 U. S. 447), is also cited in the brief to support the contention that the proposed act is unconstitutional. The Supreme Court in this case had under consideration the maternity act (42 Stat. 224). The provisions of the maternity act, in so far as concerns the appropriation of money by Congress to be allocated to the States upon the acceptance of the benefits and compliance with the requirements by the States, are analagous with the provisions of the pending bill. It was contended, in that case, that the act was unconstitutional. The Supreme Court dismissed the appeal because of lack of jurisdiction and not upon the merits of the case. There are certain statements of the court which clearly indicate that the court, however, was of the opinion that the act was constitutional and which also clearly answer some of the contentions made in the brief of the association as to the proposed legislation. The court stated, page 480:

> Probably it would be sufficient to point out, that the powers of the State are not invaded, since the statute imposes no obligation, but simply extends an option which the State is free to accept or reject.

That is the very kernel of the principle proposed in Senate bill 3060. At page 482, the court further stated:

> What, then, is the nature of the right of the State here asserted, and how is it affected by this statute? Reduced to its simplest terms, it is alleged that the statute constitutes an attempt to legislate outside the powers granted to Congress by the Constitution and within the field of local powers exclusively reserved to the States. Nothing is added to the force or effect of this assertion by the further incidental allegations that the ulterior purpose of Congress thereby was to induce the States to yield a portion of their sovereign rights that the burden of the appropriations falls unequally upon the several States; and that there is imposed upon the States an illegal and unconstitutional option either to yield to the Federal Government a part of their reserved rights or lose their share of the moneys appropriated. But what burden is imposed upon the States, unequally or otherwise? Certainly there is none, unless it be the burden of taxation and that falls upon their inhabitants, who are within the taxing power of Congress as well as that of the States where they reside. Nor does the statute require the States to do or to yield anything. If Congress enacted it with the ulterior purpose of tempting them to yield that purpose may be effectively frustrated by the simple expedient of not yielding.

It seems that if the country were passing upon Senate bill 3060 it could not better express it; the language thus used with reference to the maternity statute would apply with equal force to Senate bill 3060.

> In the last analysis, the complaint of the plaintiff State is brought to the naked contention that Congress has usurped the reserved powers of the several States by the mere enactment of the statute, though nothing has been done and nothing is to be done without their consent; and it is plain that that question, as it is thus presented, is political and not judicial in character, and therefore is not a matter which admits of the exercise of the judicial power.

No more complete and convincing answer can be made to the contentions of Senator Bingham and to the brief of the National Manufacturers Association than the foregoing language of Mr. Justice Sutherland delivering the unanimous opinion of the Supreme Court.

The brief of the Association also cites the case of Bailey *v.* Drexel Furniture Co. (259 U. S. 20), in which case the Supreme Court had under consideration the Child Labor Tax Law of February 24, 1919 (40 Stat. 1057–1138), which imposed a tax of 10 per cent of the net profits of the year upon an employer who knowingly employed any child within the age limits specified in the act. The Supreme Court held that the act was not a valid exercise by Congress of its power of taxation under Article I, sec. 8, of the Constitution, but was an unconstitutional regulation by the use of the so-called tax as a penalty for the employment of child labor in the States and that this was in violation of the tenth amendment to the Constitution.

The act before the court in that case and the proposed legislation (Senate bill 3060) are totally different; and the decision of the court, in that case does not suggest in any way whatsoever, that legislation, as provided for in the proposed act, would be invalid. In that case the validity of the act was defended upon the ground that it was a mere excise tax levied by Congress under its power of taxation. The court held that it was not a taxing act but was in effect a prohibition against employing children below a certain age and the imposition of a penalty for violation of said prohibition.

Finally it is confidently submitted that the pending bill is not only constitutional, but that its enactment is a political and sociological necessity.

Mr. BACHMANN. Mr. Green, do you know of any State that is opposed to this legislation?

Mr. GREEN. None whatever. I have not heard of a single State that is opposed to this legislation.

Mr. BACHMANN. I might say to you that the State Department of Labor of the State of West Virginia favors the legislation.

Mr. GREEN. Well, I have heard from a number of the State authorities who I feel are clothed with authority to represent the sentiment of their respective States and they have all expressed their approval, hearty approval, of this proposed legislation. They insist that it will help them materially in the States to deal with the unemployment problem.

Where is the difference between it and our Federal road building plan? We match the money of the States in building roads. Where is the difference? Are not these human beings seeking employment as important as road building? Where is the legal difference? I respectfully ask that the Committee examine this brief carefully and particularly the quotation of the Supreme Court in the opinion rendered on the Maternity Act.

Mr. LAGUARDIA. Is it not true that States that have gone into this problem through legislative commissions and otherwise, invariably in their reports point out the necessity of having cooperation with other States and uniformity in the system of unemployment agencies?

Mr. GREEN. I believe that is the case, Congressman, although I have not just at my finger's end a report of that kind. That is my understanding and impression.

Mr. LAGUARDIA. The New York report of 1910 expressed that point.

Senator WAGNER. Miss Perkins is here. She is the industrial commissioner of New York and I think she will give us some interesting testimony on that very subject.

Mr. GREEN. Yes, Miss Perkins, I am sure will give you complete information on that, so far as she can speak for New York.

The CHAIRMAN. Mr. Green, who is the author of the brief?

Mr. GREEN. The distinguished attorney of the American Federation of Labor, Mr. Easby-Smith of Washington. He prepared this brief after making a very exhaustive and careful investigation of the decisions and the points raised by my distinguished friend, Mr. Emery, and after the address had been delivered by Senator Bingham a few nights ago.

Mr. CELLER. Mr. Green, did we not have Federal employment agencies established during the war?

Mr. GREEN. Yes, sir.

Mr. CELLER. And that functioned adequately for the purposes of the emergency, did it not?

Mr. GREEN. Very well. It functioned very well.

Mr. CELLER. Do you, as president of the American Federation of Labor, find in your studies that the present employment agencies of the States are adequate for the purpose of coping with the present unemployment situation?

Mr. GREEN. Totally inadequate, and particularly the private employment agencies. Workers are compelled to turn to these private employment agencies and you know what the situation is there. They are compelled to pay a fee and they all of them deal with local situations rather than with the national situation. There is no cooperation.

Mr. CELLER. Do you think it fair to compel the man out of employment to pay a fee to get a job?

Mr. GREEN. I think it is an injustice.

Mr. CELLER. Do you think a Federal employment agency might remedy that situation?

Mr. GREEN. Wonderfully.

Mr. CELLER. There are a number of countries that prohibit the charging of fees for the purpose of getting jobs for unemployed; is that correct?

Mr. GREEN. Yes, sir.

Mr. CELLER. I believe that is true of five Provinces in Canada and seven European countries.

Mr. GREEN. I could not give you the number, but I do know that that statement is correct; that it is prohibited by statute in certain places.

Mr. CELLER. Do you find also, Mr. Green, that much unemployment is due to so-called technological displacement of men as a result of labor-saving devices?

Mr. GREEN. A very great deal of it. In fact, when conditions are normal, more than 9 per cent of all the working people of the country are unemployed, and much of that is due to technological unemployment.

Mr. CELLER. You think also that this Federal agency would do much to alleviate that situation?

Mr. GREEN. That is one important function that it can perform, because—you will pardon me if I take a moment to make this observation upon that point at this time—technological unemployment is constantly with us. It is increasing every day and every year.

Mr. TUCKER. What do you mean by that expression?

Mr. GREEN. The introduction of mechanical devices to displace men; in other words, the substitution of machinery for hand labor. Men are being displaced constantly and the tragic feature of that phase of unemployment is this: That when the worker is displaced, he not only loses his job, but his skill is destroyed.

Mr. CELLER. Like a musician, for example, I presume?

Mr. GREEN. Just like a musician; an all-round machinist, a window-glass blower; and others that I could mention. They are not only confronted with the serious specter of unemployment, but they are confronted with this fact, that the skill that they have acquired as a result of years and years of training and service has been overnight completely destroyed and instead of being able to go somewhere and find a job, find employment suitable to the men thus displaced, where he could follow his skill and training, he is compelled now to seek work where he can, as a taxi driver, as a common laborer. That involves a great social question, because under our social system, the skilled worker builds up a standard of living comparatively high, a standard that is regarded as the American standard of living. He maintains his family on that American standard of living, but when his skill is destroyed, his earning power is destroyed, or materially reduced, in finding a job of work as a common laborer, he must lower his standard of living. There is a great social question involved in this whole unemployment problem.

Mr. MONTAGUE. May I interrupt to ask you a question? I want to know the application of the statement you are now making. Are you speaking now of technological unemployment?

Mr. GREEN. Yes, sir.

Mr. SUMNERS. On that point, Mr. Green, will you indicate how you hope this bill will remedy the condition resulting from the general increase in the use of machinery?

Mr. GREEN. At the present time there is no one—no agency, no authority—assisting this man who is displaced. His skill is destroyed. The future is black, the outlook cold and unsympathetic, indeed. Where can he go?

Mr. SUMNERS. That is what I want to find out.

Mr. GREEN. He is better suited, his training and his experience fits him for something better than being a common laborer. But how is he to know where he can find some employment suitable to him? He may live in Maryland, but he may find some work in New York or New Jersey. But how is he to know that?

The Federal agencies created under this act would assemble national information, and the man out of work, displaced through the introduction of machinery, can go to some sympathetic adviser and talk his problem over with him, in this unemployment agency, because I presume it is at least fair to assume that the men who will be in charge of these employment agencies will be social and industrial experts, men who can render assistance.

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Mr. SUMNERS. I am very sympathetic with what you are saying. I am interested to know how it will work out. Let us say there comes along an improvement in machinery which is general in its application and general in so far as the effect upon the number of people engaged is concerned.

Mr. GREEN. Yes, sir.

Mr. SUMNERS. In Texas, in New York, everywhere, there are people let out by reason of this improvement in machinery. Is it in your mind that this agency set up could make a study and perhaps find some kindred business, some other field that is opening up, that a man who has had this training would be better fitted for than some new man? It would be a matter of adjustment and not entirely starting over in an entirely new business. Is that what you have in mind?

Mr. GREEN. That is the main, the important, service that can be rendered by the Federal Government, under the operation of this act. You have hit it. I tried to make it plain just a moment ago.

The Federal employment agency can tell this man, displaced in Texas, where some new industry has sprung up. Say, for instance, a television factory has opened up in New York. The man is an expert along mechanical lines. They may need him in this new industry. In fact, let us say we have a request here for 20 men from a television factory in New York. Well, the man is glad to go and accept that employment. That is better than driving a taxicab or digging ditches in the street.

Mr. SUMNERS. There is but one other question that I want to ask you—perhaps I should not ask you, but I would like to ask somebody before these hearings are concluded to answer it—whether or not consideration has been given to permitting some agency of the States to represent the States in a general council in determining general policies? I have in my mind something that is importnat to me and I imagine to other gentlemen on the committee. It is contemplated that the States shall make a contribution in money and shall make a contribution in cooperation, in help.

Mr. GREEN. Yes, sir.

Mr. SUMNERS. I am wondering if you would consider in the drafting of this bill the insertion of a provision by which these sovereign States that are contributing something in money and something in cooperation, will have some voice in the determination of policies; whether that is feasible, and whether any consideration was given to it?

Mr. GREEN. I am not so sure as to that particular provision of the act. Senator Wagner, the author of the bill, can make that plain.

Senator WAGNER. Yes.

Mr. GREEN. The plan outlined by you appeals to me. I do know that the bill provides for the establishment of advisory boards.

Senator WAGNER. Yes.

Mr. GREEN. To be composed of employers and employes who may serve in an advisory capacity and to assist those in charge of the employment agencies.

Mr. SUMNERS. What we are concerned about—when I say "we," I think I speak for a considerable group of Members of Congress—is that in the extension of Federal powers there is an unfortunate disposition to destroy the sense of State responsibility. Somebody will discuss that before the hearing is closed.

Mr. GREEN. The Senator will explain that feature of the matter, although it is my impression that the State administers these employment agencies altogether and their work is supplemented by the creation of these advisory boards who serve without compensation, to assist and help in dealing with the problems of unemployment.

Mr. CELLAR. May I continue with my line of questioning? I was interrupted.

Mr. SUMNERS. I beg your pardon for interrupting you, Mr. Cellar.

Mr. CELLAR. Mr. Green, in your studies of this question, do you find that the State discriminate against the middle-aged and the old people in their applications for jobs?

Mr. GREEN. In the private employment agencies, yes.

Mr. CELLAR. I mean the private employment agencies.

Mr. GREEN. Yes; and that is all there is now, practically. There are very few State employment agencies functioning.

Mr. CELLAR. And that is, of course, a discrimination that aggravates this unemployment problem?

Mr. GREEN. Exactly. That aggravates the unemployment situation, because in the private employment agencies those in charge seek to secure men for their clients who want men who are young and strong and able. The middle-aged, 40 or 45 years of age, are discriminated against. It is impossible during a period of unemployment—almost impossible—for the middle-aged man to find employment.

Mr. CELLER. Do you feel that such a Federal bureau could also aid and encourage vocational training among adults?

Mr. GREEN. Yes. That will be in my judgment a fine instrumentality through which the principle of vocational education can be emphasized and the work of vocational boards carried on.

Mr. CELLER. That would in a way also meet the difficulties arising from the displacement of labor as a result of the introduction of labor-saving devices?

Mr. GREEN. That is the point that I emphasized just a moment ago.

Mr. CELLER. I just wanted to clinch it.

Mr. GREEN. Yes, sir.

Mr. CELLER. We had—I do not know what committee it was, but there was a so-called Nolan bill sponsored by the American Federation of Labor in 1919. Do you know what became of that bill?

Mr. GREEN. That was a minimum wage bill, was it not?

Mr. CELLER. No; that was a bill for the establishment of a Federal employment agency of the type that is embodied in this Wagner bill.

Mr. GREEN. I am unable to say what became of it, but it has never appeared on the surface.

Mr. CELLER. How many unemployed are there in this country, approximately.

Mr. GREEN. I have got the figures here. Our reports show that there are 3,609,000 wage earners out of employment. That is for the month of May. When I appeared before the Senate committee in support of these bills, our statistical department reported that there were 3,700,000 out of employment.

Mr. CELLER. That was in February.

Mr. GREEN. That was in February, I think.

Mr. CELLER. So that there has not been any improvement since February?

Mr. GREEN. Just that slight improvement, and that is perhaps due to seasonal conditions.

Mr. MONTAGUE. Are your figures controverted by any department of the Government?

Mr. GREEN. These are our own figures gathered by our own statistical department.

Mr. MONTAGUE. I do not mean that. I mean does the Secretary of Labor, for instance, agree with your figures? Does he accept your figures as to the number of unemployed as being correct?

Mr. GREEN. No; except as——

Mr. MONTAGUE (interposing). The statement has been given out by the Secretary of Labor that there is a gradual diminution in unemployment.

Mr. GREEN. I think so. I think those figures show a slight diminution, the difference between 3,600,000 and 3,700,000.

Mr. CELLER. What loss of wages does that unemployment for the month of May represent?

Mr. GREEN. About 20 per cent.

Mr. CELLER. Twenty per cent of the number, or in dollars?

Mr. GREEN. Twenty per cent; there are 20 per cent of the workers unemployed.

Mr. CELLER. But I say what is the loss in wages?

Mr. GREEN. I think I have that here in my prepared statement that I am going to follow along. I have some more information along that line.

Mr. HAMMER. Mr. Green, just one question. I did not get in to hear all of your statement. I find among the unemployed taxi drivers and such like, and I found one the other day and he said he was discharged with five thousand more by the Pennsylvania Railroad some time ago. I told him I hoped we could remedy the matter and understood it was getting better. He said, "Oh, yes; the Labor Department says so, but they don't know," and he said the newspapers tried to boost good times and I asked him if he thought anything could be done. He said he had doubts about legislation. This was an ignorant man, you understand, but what I am asking is for information for people who do not know as much as you do. How would you expect to remedy the situation by reason of the depressed conditions where a railroad discharges as many employees as the Pennsylvania and some other roads have? How would this remedy that?

Mr. GREEN. There are a number of things that must be done. The plans we propose are only partial remedies for the unemployment situation. In my own judgment, private industry must face its responsibilities and there must be better planning and better regularization of employment, a better system of employment; that is, the private employers must realize there is an obligation resting upon them to take care of their employees, even during periods of depression

Mr. JONAS. Mr. Green, may I ask you a question there?

Mr. GREEN. Yes.

Mr. JONAS. What is the final solution of this problem of increasing technological unemployment? What we need is more jobs, and what is the solution of that growing problem?

Mr. GREEN. Well, fortunately, up until this serious depression came on, we were able to deal with the problem of displacements in a fairly satisfactory way; because the newer industries that had developed during this last few years absorbed a large number of those

displaced. But the trouble is that the point of saturation—I think that is the proper term—has almost been reached; the newer industries have almost reached their maximum capacity in their power to absorb and, unless there is something more that will develop, new and still newer industries, to take up this slack unemployment caused by technological unemployment and machine displacement, we will be face to face with the same condition that exists in England and Germany.

Mr. JONAS. Surely.

Mr. GREEN. And we will have to grapple with that problem then and choose between this social disorder and constructive legislation. We are not face to face with that yet.

Mr. JONAS. But we should begin to face it.

Mr. GREEN. I say we ought to make a gesture; we ought to do something.

Mr. JONAS. But my question is, if you will express an opinion, what is your opinion as to the fundamental solution of this problem that faces the world and that we all ought to be thinking about?

Mr. GREEN. Well you have asked me a very difficult question.

Mr. JONAS. I know it.

Mr. GREEN. I would hesitate to answer a question fraught with such world-wide significance.

Mr. JONAS. But we have to answer it, do we not?

Mr. GREEN. Yes; and, if you will ask a hundred men who claim to have studied the question, you will perhaps get a hundred different answers.

Mr. JONAS. But I have such great respect for your judgment, I wondered what your idea of the correct solution was.

Mr. GREEN. I think these bills will help us materially, particularly this bill; it will help us to regularize employment; it will help us to place men.

Mr. JONAS. But these bills do not reach the fundamentals of the problem involved.

Mr. GREEN. Perhaps not; but it will be a great help to us in dealing with this unemployment problem.

Mr. JONAS. I think so, too.

Mr. SUMNERS. Mr. Green, as I view this bill, it probably provides some machinery for study and provides some machinery for shifting labor—you say 3,000,000 out of employment. You can not go into a State of the United States that you do not find able men and women, competent people, ready to work.

Mr. GREEN. Yes.

Mr. SUMNERS. Neither can you find employment there, nor would any conscientious person send them anywhere else. I am speaking generally. In the country, we find the farms running down; I mean the productivity of agricultural machinery is getting in that shape that the fields are washing away, the houses are without painting, and yet there are painters without jobs. Can there be any solution that the fields are washing away, the houses are without painting, and yet there are painters without jobs. Can there be any solution except, somehow or other, through the means of economic machinery in this country to create greater purchasing power for the average man, so that the average man can buy some of the things that are being produced by mechanical machinery?

Mr. GREEN. That is the sloution.

Mr. SUMNERS. Instead of men being fired, provide some means of selling more to the farmers and to the laborers so that they will have a little bigger house than they have had before.

Mr. GREEN. You hit the nail on the head that time, Congressman.

Mr. SUMNERS. That is what I am interested in.

Mr. GREEN. It is a matter of consumption and the establishment of an equilibrium, a balance.

Mr. SUMNERS. We are in the situation, as I view it—I come from Texas, and we are in the situation there, in so far as the unemployment matter is concerned, and that is what I am interested in and do not want to get too far afield, that there is no rainfall on the headwaters.

Mr. GREEN. I appreciate that.

Mr. SUMNERS. There is a big flood in the river, but there is no rainfall on the headwaters.

Mr. GREEN. And a depressing condition existing in the agricultural industry aggravates the industrial situation in the cities. Both of the problems are linked, as I see it, and we have to face it some way or other; evade it as we may, we have to face the issue because it is so linked and interlinked that it is impossible to disassociate.

Mr. YATES. I understood you to say a while ago that the present facilities of the States, the different State employment agencies, are wholly inadequate to meet this situation. Where could we obtain information or a tabulation in regard to what the States are trying to do?

Mr. GREEN. You can secure that through the executive department of each State. Most all of them have industrial departments; some of them are industrial relations departments. And you can find out through the Federal director, who is here in the room, I think.

Mr. YATES. I was concerned to note your statement that they are wholly inadequate.

Mr. GREEN. They are wholly inadequate; I make that statement. I do not think that is too strong. It is wholly inadequate and surely any one in touch with the unemployment situation in the different States will realize that fact. It comes home to you. I appreciate you members here, serving in the Congress of the United States, remotely situated, perhaps, from these centers of increasing unemployment, will probably not realize it as we do; but we come face to face with it and I want to say to you, in all sincerity, that it is tremendously serious.

Mr. MCKEOWN. Mr. Green, has it ever been suggested that we might undertake to defer or declare a rest period for a while in our patent office on these labor saving machines in this country?

Mr. GREEN. Well, I had not thought along that line.

Mr. MCKEOWN. Well, Japan, as I understand it, refuses to permit any labor-saving machine to be introduced in her country, on account of the man power and the necessity to use the man power. Now I am wondering if that suggestion has ever been made or any study given to the proposition in this country as to whether or not it is more valuable to have improved machines, or more valuable to have our men employed.

Mr. GREEN. Well permit me to remind you what I said just a while ago, that we have been able to absorb in industry, in the newer industries, practically all the men who were displaced through the introduction of machinery, up until probably a year or two ago.

You see, with the development of the automobile and airplane industry, radio and others, with all their equipment, hundreds of thousands of men have been taken into these newer industries. Now that will probably continue so long as we are resourceful enough to develop new industries and newer needs and create and build only new things; but even now, Congressman, if we could only develop a system of employment, the market in America is so potential that we could put every man to work if you would put in the hands of the masses of the people the power to buy. We would have no unemployment. It is a matter of equilibrium, economic equilibrium, and surely the problem is not too great for us. But we can not afford to wait, I maintain, to solve this economic and social problem.

Mr. MONTAGUE. These measures will start you on the way?

Mr. GREEN. They will help us wonderfully.

Mr. LAGUARDIA. I just want to get back to the bill we are discussing and to carry out the idea suggested by my colleague from North Carolina, Mr. Jonas: Is it not true that in times of industrial depression, without a uniform system of employment agencies, there is a tendency to bring down the standard of wages and to increase the hours of work; so that, instead of getting work for the unemployed, you are constantly bringing down the standard and you increase the unemployment situation; while if you had a uniform Federal system, that could be guarded against and not permit industry to depress and tear down the standards?

Mr. GREEN. I am glad to have you make that little argument in support of the bill; it is the right point. The facts are that under our present system, in the private employment agency, advantage is taken of the large number of men out of work applying for employment and, of course, some of them are told, "Well, if you will take some reduction in wages, we will give you a job at this rate of wages," which, of course, would be a substantial reduction in wages. Now there is a selfish interest there; that is, the selfish interest of the employer in back of the private employment agency to take advantage of this unemployment situation, and to aggravate it by reducing the purchasing power of the great masses of the people. Now back of the private employment agency are the selfish employers seeking men as cheap as they can secure them. Now we will reverse that situation. The Government is not interested in reducing wages; the Government is interested in maintaining high standards. We should not conceive of a situation where the director of an employment agency, supervised by the Government, would try to beat down a man's wages in order to get him a job. We feel it is creating at least an impartial tribunal (if I might put it that way), to deal with a serious unemployment situation. The man is sympathetic; the Government is sympathetic. We want to bring back prosperity and we can bring it back by placing the men, finding them work. They are interested in finding work, whereas the private agency and employer back of it is interested in getting men cheap. We reverse the whole situation. There is a splendid argument in support of Senate bill 3060.

Mr. BACHMANN. Just one question in connection with S. 3060. I notice in section 2 it says these employees must be selected in accordance with the civil service law. Now the purpose of this legislation is to help labor and to help the laboring man.

Mr. GREEN. That is the director and the employees in the department.

Mr. BACHMANN. It is all employees under that bureau, wherever they may be.

Mr. GREEN. Yes.

Mr. BACHMANN. They are to be selected under the civil service law.

Mr. GREEN. Yes.

Mr. BACHMANN. I do not know whether you have given any study to that particular feature of it, or not, but it occurs to me the purpose of this bill is to help labor and to help the laboring man and, from my experience in some of these matters, putting these employees under the civil service law has a tendency to restrict the employment of men who really ought to be employed in certain of these positions. I direct your attention, when they put the prohibition agents under the civil service law, we had men who had served as sheriffs and deputy sheriffs. They did not have an education, but were very well qualified to perform the duties; but, because some other men had a little better education than they did, they were selected; when, as a matter of fact, from practical experience, they did not know nearly as much about it as the men who served in those offices formerly. Or some of the men may have been just a little over age. Now are not we, by putting in here this direct provision, restricting the very purpose you are trying to accomplish, in a measure, by this legislation? Ought not it to be free and open so that men, regardless of age, who may be well qualified, but who may not have the education that some other men have, would have an advantage? As I understand this bill, there would be a lot of employees selected in this bureau.

Mr. GREEN. Congressman, that is an administrative matter which we thought we had met in the most practical and successful way. You must bear in mind that a number of these people employed in these employment agencies must be technical people—men equipped with knowledge of the social and economic problems with which they will be called upon to deal, and then we want to take out of it the political log rolling that might occur if it was left open. We feel it is on about as good a basis as you could put it, because I take it for granted that the civil-service examination will be reasonable—will not exclude and will not be of such a character as to exclude those who are really fitted to serve in these administrative positions.

Mr. BACHMANN. I am merely directing attention to that matter; because, if this provision contained in this bill is going to restrict in the beginning, it ought to be given some study before it is enacted.

Mr. MONTAGUE. Well, the Civil Service Commission is required to give some proportionate value to experience.

Mr. GREEN. I think that is the law.

Mr. MONTAGUE. If not, that ought to be the law. They give value to experience as part of the education.

Mr. GREEN. Oh, yes.

Mr. MONTAGUE. I think my friend misconstrues the word "education." A man can be highly educated for certain work and yet have very little book knowledge.

Mr. GREEN. That is the reason I made the observation.

Mr. MONTAGUE. Therefore the civil service will give value to that in its total summing up of the units that will qualify the man.

Mr. BACHMANN. I understand the purpose of the legislation and what they are trying to accomplish by it. I am merely directing the gentleman's attention to the fact and asking whether or not it has been studied sufficiently to know what it is going to bring about.

Mr. CELLER. In order to clarify the record and to clear up any misunderstanding as to Senator Bingham's attitude on Senate bill 3059, I have before me the record of the Senator's speech over the radio as it appears in the United States Daily of Monday, June 9, and as to Senate bill 3059 he indicates no objection and goes on to say that bill passed with a substantial agreement in the Senate and passed without opposition, indicating that he apparently has no objection to that bill, at least.

Mr. GREEN. Yes. That was my understanding, although I did not have that statement, to which you call my attention, before me. I am glad you called my attention to that. Now, just a few moments more. Unemployment still remains at as high a level as last January, 20 per cent—only 2 per cent less than the peak. Progress in employment is highly unsatisfactory. We estimate that 3,609,000 wage earners were out of employment in the month of May. Reports from trade unions in May show there are still as many out of work as in January. In both previous years, 1928 and 1929, the situation was clearing rapidly by May and at least 27 per cent of those out of work in January were back at their jobs again. The improvement from April to May this year was very slight. Revised figures show that 21 per cent of union members were out of work in April. In May 20 per cent were still unemployed. After the crisis of 1928, the improvement from April to May was three times as great as this year, and the change from March to May five times as great.

Building-trades men are the only trade group showing any improvement. Ten per cent of those out of work in April have found employment, but this is a very small improvement, considering the large number seeking work. Thirty-six per cent are still unemployed. After the crisis of 1928, the improvement for building trades-men from April to May was more than twice as great. In metal trades, the number unemployed is actually increasing. Twenty per cent are now out of work, four times as many as at this time last year. The dull condition of the metal industries is making it harder than ever for members to find work. Unemployment has actually increased from 15 per cent in January to 20 per cent in May, when employment is usually improving at this season of the year. In printing 6 per cent are still out of work, an unprecedented number, and twice as many as at this time last year.

Now, I submit some figures here that I will not burden you by reading, but will put them in the record, giving the unemployment in cities in per cent.

Unemployment by trades [1]

Month	All trades	Building trades	Printing trades	Metal trades	All other trades
1928	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*
January	18	36	4	18	----------
February	18	39	5	16	----------
March	18	38	5	13	----------
April	16	32	5	12	----------
May	13	25	4	12	----------
June	11	22	4	10	----------
July	12	24	5	13	----------
August	9	19	5	9	----------
September	10	22	5	8	----------
October	9	18	5	8	----------
November	10	21	4	7	----------
December	13	23	3	7	----------
1929					
January	15	30	4	8	----------
February	15	33	5	8	----------
March	14	34	5	7	----------
April	12	29	4	6	----------
May	11	26	3	5	----------
June	9	19	3	5	----------
July	9	16	4	6	----------
August	9	18	4	7	----------
September	10	21	3	7	----------
October	11	22	4	7	----------
November	12	23	4	8	----------
December	16	32	4	11	10
1930					
January	20	38	5	15	12
February	22	43	5	18	13
March	21	41	6	18	13
April	[2] 21	40	6	19	12
May [2]	20	36	6	20	13

[1] For an explanation of the collection and computation of the figures, see Mar., 1928, American Federationist.
[2] Preliminary.
[3] Revised.

Unemployment in cities—Per cent of union members unemployed in identical unions

	All trades		Building trades		All other trades	
	April, 1930	May, 1930	April, 1930	May, 1930	April, 1930	May, 1930
Atlanta, Ga	13	10	49	34	5	4
Baltimore, Md	18	16	29	28	7	5
Birmingham, Ala	19	15	53	34	8	8
Boston, Mass	24	27	39	46	10	11
Buffalo, N. Y	23	20	36	32	19	15
Chicago, Ill	24	24	50	48	10	10
Cincinnati, Ohio	18	21	42	40	5	10
Cleveland, Ohio	22	20	32	28	12	12
Denver, Colo	28	23	43	29	21	20
Detroit, Mich	27	24	45	43	15	13
Jersey City, N. J	26	23	35	34	21	18
Los Angeles, Calif	21	21	36	36	16	17
Milwaukee, Wis	14	12	37	29	5	5
Minneapolis, Minn	18	15	36	27	9	8
New York, N. Y	24	21	40	32	15	15
Omaha, Nebr	11	11	23	27	7	5
Paterson, N. J	31	25	50	35	15	16
Philadelphia, Pa	26	27	39	35	22	24
Pittsburgh, Pa	18	17	35	31	8	8
San Antonio, Tex	19	13	62	41	4	4
San Francisco, Calif	15	12	31	26	13	10
St. Louis, Mo	13	13	35	31	7	8
Seattle, Wash	13	13	28	27	7	6
Washington, D. C	10	10	28	29	3	3

Mr. MICHENER. What is the average number of men out of employment in the United States in ordinary prosperous times?

Mr. GREEN. About 9 per cent.

Mr. MICHENER. Normal times.

Mr. GREEN. About 9 per cent; that is, it has increased to 9 per cent during these periods, during this intense period of machine displacement and technological unemployment. Heretofore it was not quite so great.

Mr. MONTAGUE. You mean involuntary unemployment.

Mr. Michener. What I mean is this: If the country was normal and we were going along in a way in which I was satisfied, you were satisfied, and everybody else, how many men would naturally be out of employment? Of course, it is often asserted and I think I heard Mr. Gompers say at one time, before this committee, there were probably 2,000,000 men who were not working in the country who did not want to work. That is what I am getting at.

Mr. GREEN. Congressman, that question has been highly debated. The Labor Department has made statements that a certain number of men were unemployed.

Mr. MICHENER. Yes.

Mr. GREEN. Then other statistical departments have challenged the statement and there has been some more or less confusion.

Mr. MICHENER. I have great respect for your judgment and I wondered what your judgment was.

Mr. GREEN. Thank you, sir. I want to try to maintain the standard you have set; but it is our best judgment that the unemployment runs about 9 per cent under normal conditions. Now let me make this observation, however, that the census on unemployment has been taken and for the first time in the history of our country we ought to have the picture before us—the picture of unemployment; because, through the census enumerators, the Government has endeavored to ascertain the number who are constantly employed, who want work, but can not find work, and the men who are out of work because of sickness, or because of some other inability, and because of seasonal unemployment. So the whole picture will be before us and we will be able to know what the situation is in a few months.

Mr. MICHENER. This 9 per cent—that would mean about how many individuals?

Mr. GREEN. Well, we have to find the total number of employed in the United States. I think perhaps 9 per cent of 30,000,000 or 35,000,000 employees. That would take in, of course, office employees.

Mr. MICHENER. That would be, normally, we would have, say, between two and three million people in this country out of employment?

Mr. GREEN. Well, you understand they would be out of employment temporarily, most of them.

Mr. MICHENER. Yes. I am talking about normal times, just the number of people not working.

Mr. GREEN. Yes. I judge it would run perhaps 9 per cent of whatever the total number was.

Mr. HICKEY. Do you take the agricultural workers into consideration in that number?

Mr. GREEN. Yes.

Mr. MICHENER. Of course, my purpose was to show the number of people out of employment by choice and not of necessity. You see, I referred to normal times—the times when we were all satisfied. Now in those times we have, you state, about 9 per cent of our working people out of employment; so we have between two and three million men in this country out of employment at all times, then, in the most prosperous times?

Mr. GREEN. I am not sure. Those figures would be debatable, of course; they are highly controversial, and then you must take into consideration the fact there is a shifting going on; men are moving from one place to the other, seeking employment and most of the time it is temporary. This is 3,700,000 out of work, willing to work and who can not find work. That is the report. You must differentiate between a group of men classified as unemployed, under that head, and perhaps a million men out of work part of the time, due to seasonal causes, or other causes, under normal conditions. There is a vast difference.

Mr. MONTAGUE. I did not catch your answer to Mr. Michener's question. I do not think he put it exactly as I thought. I repeat this phase of it: You speak of 9 per cent of men unemployed. Now there is an involuntary unemployment.

Mr. GREEN. Yes. I did not understand what he meant.

Mr. MONTAGUE. And there is a percentage of people who are voluntarily out of employment, also.

Mr. GREEN. I do not understand what he means by voluntary unemployment.

Mr. MONTAGUE. I will use another word. There are 9 per cent of the people unemployed.

Mr. GREEN. Yes, sir.

Mr. MONTAGUE. There is a percentage of people who do not wish employment; you can not make them work.

Mr. GREEN. Perhaps so, yes. I think you are right on that.

Mr. MONTAGUE. Do not you come upon that in your experience?

Mr. GREEN. Yes; that is excluded.

Mr. MONTAGUE. This is voluntary unemployment, you might call it.

Mr. GREEN. Yes.

Mr. MONTAGUE. The man who won't work and can work, he is a voluntarily unemployed man.

Mr. GREEN. Idle out of choice.

Mr. MICHENER. I mean, by involuntarily, when times are prosperous, when we are all satisfied, when there is a job for every man who wants one, in those times there are 9 per cent of the total working population of the country unemployed. That ought to be clear.

Mr. MONTAGUE. Would you call that involuntarily unemployed?

Mr. MICHENER. I do not want to quibble over words.

Mr. MONTAGUE. I am not quibbling over words.

Mr. MICHENER. I just want to find out how many won't work and how many will work.

Mr. GREEN. We can easily get confused on that, because I am talking about wage earners, men and women, willing to work, seeking work, but who can not find the work. Those are the people I am talking about now. I realize you may become confused by men and women who may be classified as idle, who are taking vacation and are off of their jobs. Now we do not consider those who have jobs as idle and I presume in the 9 per cent would be included the number that are floating in that sort of mystical situation.

The CHAIRMAN. Mr. Green, I thought I understood Mr. Michener clearly. What he meant to inquire was what was the state of unemployment during ordinary times.

Mr. GREEN. I have made that as clear as I can.

The CHAIRMAN. About 9 per cent of all that are employed in good times.

Mr. GREEN. You will understand, Mr. Chairman, included in that 9 per cent are a large number of workers who have been displaced.

The CHAIRMAN. I understand that.

Mr. GREEN. Through the introduction of mechanical devices.

The CHAIRMAN. The question only involved a picture of the condition in prosperous times.

Mr. GREEN. Yes. Now I want to make this observation: Industries are beginning to realize that sales policies condition profits equally with production economics. Salesmanship and markets are essential to satisfactory disposal of articles on the market. Wage earners have been stating in emphatic terms that they would like to live better and if they had the money there would be no surplus of bathtubs, shoes, dentists' services, books, automobiles, good clothing. Higher wage rates and more stable employment would increase wage earners' incomes so that they might buy those things they want and need. There is at our very doors a huge potential market for American products which should be used to turn the tide of business upward toward prosperity. Over 7,000,000 families in the United States have no automobile; about 20,000,000 have no adequate radio set. In our cities alone, without counting farm population, there were in 1928 over 4,000,000 families who had no bathtubs in their homes, and over 3,000,000 who had not even a kitchen sink with running water, and probably no plumbing of any kind in their houses. Over 13,000,000 families in our cities have no telephones; over 4,000,000 live in homes not wired with electricity. About 5,000,000 families in America to-day are living below the minimum of health and efficiency level; they need furniture, clothing, food, better housing. And the four and one-half million who have barely enough to support themselves at a minimum of health level are only too eager to raise their standard of living by buying industrial products. All these are eager to be customers of our industries.

Take the hosiery industry, for instance, which is now suffering from overproduction. It would not have the least difficulty in selling its product if the thousands of women who want silk stockings could buy enough to satisfy their needs. the cotton industry would not be calling for drastic curtailment if wage earners could buy all the cotton goods they need for clothes and household supplies. Automobile manufacturers could keep on expanding production instead of reducing if the 7,000,000 families who have no cars were able to buy. And so with other industries. Here is an immense potential market for our goods. Developing this market will mean higher living standards for thousands who have not yet shared in American prosperity. It will mean human progress along with industrial progress; the creation of better homes, happier families, a higher quality of citizenship, greater opportunity to develop the

fine human qualities latent in thousands of our underprivileged citizens.

Mr. JONAS. Now, Mr. Green, that is what I am interested in: How are we going to bring that about?

Mr. GREEN. Put these men to work and they will buy and use.

Mr. JONAS. That is right. That is the problem.

Mr. GREEN. That is the problem we are trying to deal with. Why not find them work; why not develop their morale, arouse their spirit?

Mr. JONAS. Do not understand me to be opposed to this legislation.

Mr. GREEN. I understand.

Mr. JONAS. But I am looking beyond this; I am looking at the fundamental situation.

Mr. GREEN. I take it from your questions you are in favor of it. That is what I am dealing with. What we want to do is to put men to work to try and find work and in that way they will be looking up instead of down; they will want to buy and will buy.

Mr. JONAS. I am trying to get you to say, in your judgment, what is the solution of that problem; how are we going to give substantial wages to these people who can not buy; how are we going to make consumers out of them?

Mr. GREEN. My dear sir, the law of economics is inexorable; it operates in spite of all we can say and do. There is no law that is so immutable as the law of economics. If we can put these men to work through the development of better planning, better agencies, if we can find them work, it will help. How have we come out of these other panics? After a long period of suffering. Now we want to accelerate the improvement in the situation here, to put them back to work, and you have the greatest consuming market in the world. Put them back to work and they will buy.

Mr. JONAS. But if jobs are becoming scarcer year after year and year after year and there is more and more unemployment, because of this technological situation, how are you going to do it?

Mr. GREEN. Why we won't concede that situation is either necessary or ——

Mr. JONAS. You won't concede there is a problem to be solved?

Mr. GREEN. Oh, yes, I concede that; but I won't concede it is necessary for us to have a constant army of unemployed.

Mr. JONAS. I do not, either.

Mr. GREEN. That is the point.

Mr. JONAS. It is not necessary, but there is going to be some fundamental change in our economic situation if we are to remedy this situation.

Mr. GREEN. What would you suggest?

Mr. JONAS. I am groping in the dark. You are a leader and I am trying to get some help from you.

Mr. GREEN. I am suggesting the best way I can. Have you any better way?

Mr. JONAS. No, you have not suggested any.

Mr. GREEN. We are offering some plan, some remedy; try it out and let us see what it will do.

Mr. JONAS. I am in sympathy with that, but that does not touch the fundamentals. Here you are a great leader of the unemployed laboring people of America. I have respect for your judgment.

Here I am in the dark; I am intensely interested in these people you are interested in: Now what is your fundamental solution of it?

Mr. GREEN. There are many things we can do. As I have stated, we can regularize employment in private industry; we can better plan in our public works; we can spend the public funds in building roads, erecting buildings, and so on, in a more judicious and systematic way. When they are all employed in private industry, we can simply withhold the expenditure of the public money; when a period of depression comes on, we can release it and loose it and take up a large part of the slack of unemployment. Then, in addition to that, we can reduce the hours of labor, readjust the working week, and all of that, so as to make it possible for all to have some work while we are going through these periods of industrial depression.

Mr. JONAS. Now you are beginning to say something about the final solution.

Mr. GREEN. I assumed that was a step you expected to take. That is what the leaders are trying to do. We have been preaching for years a reduction of the work week; if we have not enough work to give all a 5-day work week, let us have a 4-day work week; if we can not employ on an 8-hour day, let us have a 7-hour day. But it means regularization of that matter through private industry.

Mr. JONAS. In other words, we can not find jobs if there are no jobs; we can not find jobs for those unemployed unless there are actually enough jobs to go around.

Mr. GREEN. That seems to be self-evident.

Mr. LAGUARDIA. But we can spread the jobs, when there are only a few working 10 or 12 hours a day, by reducing the number of hours, and we partially adjusted the garment situation in New York by working 40 hours a week.

Mr. JONAS. But this legislation does not provide any new jobs.

Mr. LAGUARDIA. Oh, no.

Mr. GREEN. The whole economic question must be dealt with outside of legislation. We can not cure all of the economic ills by legislation; we must deal with them through the application of economic remedies, and part of the solution of this economic situation is through the application of economic remedies.

Mr. SUMNERS. You just have one bill here dealing with one subject to-day.

Mr. GREEN. With one subject, one phase of it.

Mr. SUMNERS. And the big proposition of distributing the benefit of improved machinery has to be tackled at another time?

Mr. GREEN. That is another phase of the problem that must be dealt with.

Mr. SPARKS. In this plan for bettering the conditions of the laboring men throughout the United States, do you not think it would be advisable to place restrictive totals on the immigrants, on the number of immigrants from some of the countries of our Western Hemisphere, and especially that of Mexico?

Mr. GREEN. Decidedly so; because the American Federation of Labor has taken a very strong position in favor of the legislation now pending before Congress that has for its purpose the application of the quota provision of the immigration law to the South American Republics and particularly Mexico. We feel we should not add to the already aggravated unemployment situation by bringing in men and women to work, when there is no work for those who are already

here. The whole problem of immigration ought to be better systematized and my own judgment is that we have reached the point where some authority ought to be conferred upon some one to stop all immigration for certain periods of time when these unemployment situations are threatening and when they come upon us. That, I think, is necessary.

Mr. SPARKS. It is a fact, is it not, that during the year 1928 there were more immigrants from Mexico than from any other country to the United States?

Mr. GREEN. Well, I hesitate to quote figures unless I have them here.

Mr. SPARKS. I think that is the fact.

Mr. GREEN. Of course the immigration figures will show. Now I must hasten along. I should like to deal with this problem of technological unemployment, just briefly, supplementing what I have already submitted. Technological unemployment is no new thing, but the rate at which it has been developing in the past 10 years makes it a special problem. A wage earner must have a job in order to meet his living expenses. As his reserve margins are small, loss of his job is the shadow of the great fear that is the background of labor thinking. It is bad to lose a job but it is a catastrophe to lose one's trade skill. Imagine if by some wave of the magic wand the law profession was wiped out and the lawyer's skill was destroyed: Would not that be serious to him? Well suppose the glass blower and the machinist, the window glass blower and the electrician, and all of that class—his skill is wiped out: He occupies about the same position as a lawyer. The lawyer would not be very well fitted to go dig in the ditch; nor is the musician fitted to go dig in the ditch when he is supplanted by the sound picture. His hands, his muscles, and his whole outlook are totally unfitted, temperamentally and otherwise. Yet that is his choice and there is nobody to help him now; nobody to help him, to advise him—to find a place for a man of that type.

When craft skill is "transferred to a machine" the craftsman is industrially bankrupt. Craft skill that was an investment of a lifetime of work goes to the industrial scrap heap when scientists find new processes or inventors produce new machines. Their trades are gone and, because workers must live, they seek jobs in other callings—often at lower incomes and with consequent lower standards of living.

On the other hand, technical progress means more things at lower prices and consequently more physical comforts and greater ease of living for greater numbers of people. Technical progress is the means to higher material civilization. Progress comes from change. Change means dislocation. It is a sad commentary that individual wage earners have paid the social costs of technological progress in industry.

What thought has been given to musicians displaced by musi-reporductions; to the art of the actor forgotten in the latest movietone; to the Morse operator displaced by the teletype; to the steel worker displaced by a new process; to the carpenter watching a house assembled by units; to the printer turned out by the teletypesetter? Such workers in thousands have been turned out without jobs and without the possibility of future employment in the craft in which they have invested their all.

Here are a few of the changes which have made jobs scarce: Take for instance the manufacture of electric light bulbs. In 1918 it took

one man a whole day to make forty electric light bulbs. The next year came a machine that made 73,000 bulbs in 24 hours. Each of these machines threw 992 men out of work. In the boot and shoe industry 100 machines take the place of 25,000 men.

Mr. MONTAGUE. Would you correct that situation by prohibiting invention?

Mr. GREEN. How is that?

Mr. MONTAGUE. You would not suppress invention that brought about the simplification of making bulbs?

Mr. GREEN. Certainly not; no.

Mr. MONTAGUE. Some gentleman asked a while ago if we should not stop that.

Mr. GREEN. Oh, no. Labor is not opposed to the introduction of mechanical devices; but what we ask is that we shall share in the benefits that come from the introduction of mechanical devices and that the Government and society shall help the men who pay the greatest price because of the introduction of these mechanical devices.

Mr. MONTAGUE. I agree with you about that, but one of the gentleman of the committee suggested carefully considering the question of suppressing invention.

Mr. GREEN. I did not hear that.

Mr. CELLER. Would it not be a partial remedy to time the introduction of these labor-saving devices to await a period when these men who are to be displaced can find other jobs and other employment?

Mr. GREEN. Well we may reach that problem, but labor has not asked that that be dealt with at this time. We can not compass the whole issue by developing these mechanical difficulties.

Mr. CELLER. Has not that been done by some large employers of labor in one or two industries?

Mr. GREEN. Well, one or two have experimented in that direction, but they are, as a rule, altruistic employers. The general run of employers have not done so.

In the boot and shoe industry 100 machines take the place of 25,000 men. In the manufacture of razor blades, one man can now turn out 32,000 blades in the same time needed for 500 in 1913. In automobile factories similar changes have taken place. In a middle western State to-day, a huge machine turns out completed automobile frames almost untouched by human hand. About 200 men are needed to supervise this vast machine, and they turn out between 7,000 and 9,000 frames a day. Compare this with a well known automobile plant in Central Europe where the same number of men are making automobile frames by older methods. They turn out 35 frames a day. In steel blast furnaces 7 men now do the work of 60 in casting pig iron, and even in the last two years, since 1927, the improvements in technical processes have reduced the necessary work force in the Bessemer process by 24 per cent. In machine shops, one man with a "gang" of semiautomatic machines replaces 25 skilled mechanics. Thirty workers with 10 machines can now do the work of 240 in the Sun Tube Corporation machine shop. A new machine installed by the de Forrest Radio Co., will turn out 2,000 tubes an hour with 3 operatives as against 150 tubes from the old machine with 40 operators.

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What happens to these displaced workers? Take the record for all manufacturing industry in the United States. In the decade from 1899 to 1909, production increased 59 per cent. What happens to them; where do they go? There is the question; where do they go—skilled workers accustomed to a high standard of living, temperamental men, artists, musicians—where do they go? Is not that a problem?

Improved machinery played some part in this increase, but it was largely made possible by taking on more wage earners, for the number of wage earners employed by our factories increased 40 per cent from 1899 to1909—that is, 1,903,000 more wage earners were taken on to bring about this 59 per cent increase in production. Similarly in the decade from 1909 to 1919, production increased 35 per cent and employment increased 38 per cent. Increased production was made possible by employing 2,481,000 more wage earners. This meant jobs for nearly two and a half million more men and women.

Now in the decade from 1919 to 1929 developments took an entirely different turn. Production increased as before, so that our plants were turning out 42 per cent more in 1929 than in 1919. But this increase was made possible without any increase in the number of wage earners employed. Employment actually decreased 7 per cent from 1919 to 1929. Forty-two per cent more goods were produced with 585,000 fewer workers. This general increase was made possible by the introduction of new machinery and modern methods of manufacture. Increasing production, instead of creating more work, actually took away 585,000 jobs. The producing power of the average wage earner increased 11 per cent in the 20 years from 1899 to 1919; but in the short space of 10 years from 1919 to 1929 (half as long) it increased 52 per cent.

These great changes have so limited the number of wage earners needed in our manufacturing industries that men and women are forced to walk the streets, looking for work. To be sure some jobs are created in the service industries, where employment has been increasing in the last decade, but these are not nearly enough to make up for the change in manufacturing.

Although technological unemployment is no new story, the rate at which technical progress has come in the past 25 years makes displacement of workers a very different problem. The rapidity and the scope of scientific progress has made technical procedure practically fluid. The period of recent economic prosperity made it possible for industries to install the newest machinery and the newest processes without hesitation. Abundance of capital facilitated the development of new industries.

These new industries have helped to absorb workers released by older industries. But some of the new industries, particularly automobiles, are most unstable, and have by far the highest fluctuation in pay rolls of all industries.

During June of 1929 industrial production in the United States reached a new record peak. Even this stupendous output failed to supply employment to all seeking work. The records of the American Federation of Labor showed 9 per cent unemployment among trade union workers during that period of record breaking production. In the summer of 1927, the federation had been sensitive to recurring reports of unemployment from all parts of the country and instituted a system of monthly reports from the local unions in 24 industrial

centers. The summary of these records is an interesting document. We are satisfied that the sustained high rate reflects among other forces unemployment due to mechanization of industry.

Nearly one-third of the wage earners in the United States depend on manufacturing industries for their jobs. Our wage earner population is increasing, while jobs in manufacturing industry decrease. Since 1919 the normal increase in population has brought over five and a half million more persons who want work as wage earners, while jobs in manufacturing have decreased by 585,000. Thus we need more than 6,000,000 new jobs.

Nor there are a lot of interesting facts that I have included in this prepared statement, but it occurs to me I am taking up altogether too much time. There are others here who will present to you some interesting facts and information and I feel I am transgressing upon their time by pursuing further. I will file this statement for the benefit of the record and those facts and the information which I have failed to read can be absorbed by the members of the committee.

I want to leave this thought with you in conclusion: The American Federation of Labor is deeply interested in these measures. We feel that, after all, it is the only proposal before Congress that is practical and constructive, looking towards the relief of the unemployment situation. Can Congress afford to adjourn without doing something that will relive the unemployment situation? Can you go home to your constituents and face the inquiry of "What did you do to help us?" If you fail to pass this, then what will you pass; what else is proposed? In these closing hours of Congress, what can you do for us if you fail to pass these measures? It is inconceivable that we can be confronted by such a serious social and economic problem as the one which exists today, without Congress dealing with it in some constructive way. If this bill is not right, then what can you give us instead; what are we to have? We have gone over it. We feel these measures are reasonable, very reasonable and conservative indeed, and, if these bills are passed, we can say to labor that Congress at least shouldered its responsibilities and did something for you.

We do not stand in the way of technical progress. I do not wish you to interpret what I have said, in analyzing the problem growing out of the introduction of machinery, as opposition on the part of the American Federation of Labor to technical and mechanical progress. We feel that is inevitable. The benefits are great; but, while we enjoy the benefits, we believe society ought to help those who really pay more because of the introduction of scientific and mechanical methods than any one else. We must face this issue; we can not avoid it. We are face to face with it. Germany and England are grappling with it, very seriously; we want to avoid the experiences they have had there. We want to deal with it in an American fashion, in an American way; but, just as sure as the sun shines, unless our legislative bodies meet their obligations and face their duties and responsibilities by helping in this situation, we will be confronted with a situation filled with discontent, threatening our very security and our peace and our prosperity.

These are the thoughts I want to leave with you. I hope gentlemen, you will favorably report this bill and that it will be passed promptly.

Mr. HAMMER. Mr. Green, about how long, about how much testimony, about how much time, would it occupy for the proponents of the bill, or are you in a position to say?

Mr. GREEN. I am not in a position to say. We have some very distinguished people here who have come a long ways.

Mr. HAMMER. The point is this: If this committee is going to have hearings, they will have to sit almost continuously, if there is much testimony from the proponents and the opponents of the measure; because I think Congress is going to adjourn next week and it is very important that we have hearings here even during the sessions of the House, if we expect to try to get this bill through.

Mr. GREEN. I think we appreciate that.

Mr. HAMMER. Another thing: While it is very important to have this kind of legislation, there is a great deal of legislation that does bear upon the cost of living. For instance, for the past 8 or 10 years, there have been efforts of the Patents Committee to get out a patent bill giving a patent on women's shoes, children's dresses, furbelows and flounces, and everything that children and women wear. That bill has been reported two or three times and emasculated to a great extent so that it was not so very harmful, but it was reported yesterday and came up in the House and there was objection to it. The whole purpose of the legislation is to increase cost. I have received dozens and in fact hundreds of letters in the last few years from opponents of that measure. The newspapers are full of it. They want to copyright roses, flowers, potatoes, and everything of that kind. That legislation is very questionable as to whether it is of value to the country. You can pass all of the legislation of this kind you want to; but, when you pass legislation of that kind, you increase the cost of everything we enjoy.

Mr. GREEN. I am not prepared to go into that.

Mr. HAMMER. It is a very important matter.

The CHAIRMAN. But it is not related to this matter, Judge.

Mr. HAMMER. I think it is, very greatly.

SALES CONDITION PRODUCTION

Industries are beginning to realize that sales policies condition profits equally with production economies. Salesmanship and markets are essential to satisfactory disposal of articles on the market.

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[1] Figures from "Recent Economic Trends" National Bureau of Economic Research.
[2] Figures quoted by Paul Nystrom in "Economics of Consumption."

Take the hosiery industry, for instance, which is now suffering from overproduction. It would not have the least difficulty in selling its product if the thousands of women who want silk stockings could buy enough to satisfy their needs. The cotton industry would not be calling for drastic curtailment if wage earners could buy all the cotton goods they need for clothes and household supplies. Automobile manufacturers could keep on expanding production instead of reducing, if the 7,000,000 families who have no cars were able to buy. And so with other industries.

Here is an immense potential market for our goods. Developing this market will mean higher living standards for thousands who have not yet shared in American prosperity. It will mean human progress along with industrial progress; the creation of better homes, happier families, a higher quality of citizenship, greater opportunity to develop the fine human qualities latent in thousands of our underprivileged citizens.

The market of the future is with the wage earners. Mass production calls for mass buying, and our problem is to make it possible for the millions who are not yet customers to buy according to their needs. How can their buying power be financed?

ADVANCE PLANNING AND REGULATED CONSTRUCTION OF PUBLIC WORKS TO MEET CYCLICAL UNEMPLOYMENT

The American Federation of Labor has repeatedly indorsed the principle of deferred programs for construction of public works ready to be initiated when there is need to meet unemployment rising with cyclical business depressions. Such programs would provide employment for many and would stimulate industries furnishing the materials for construction and indirectly aid other industries. Initiation of public construction undertakings would check or retard depression forces. Such a proposal has been before Congress a number of times.

Although the principle has been discussed for years and generally approved, the depression last year came upon us without provisions for initiating local or national programs.

During the severe unemployment crisis of 1914–15 and 1921, programs of construction of public works were launched after depression had developed and unemployment was serious.

The President's Unemployment Conference of 1921 achieved the formulation of a cordinated plan for dealing with unemployment and crystallized the proposal to anticipate cyclical unemployment through deferred plans and the machinery to initiate their execution. We realize that not all public works can be deferred to serve as a balance wheel to industry and that cyclical unemployment must look for relief through the speeding up of construction undertakings already under way.

The measure now before this committee would provide a Federal agency to be charged with the responsibility of providing employment during periods of business depression. The American Federation of Labor wholeheartedly indorses it.

NATIONAL EMPLOYMENT SYSTEM WITH THE COOPERATION OF THE STATES

The most constructive aid that can be given the unemployed is to help them to find jobs. This service can be done efficiently through a national organization. At present it is left to local undertakings or private initiative. A privately operated employment service is managed to bring in profits—a worker's misfortune or necessity is its opportunity. When a worker's finances are at low ebb he must pay a fee for a job.

Losing employment is often due to no fault of the worker, but to the needs of industry or to social or scientific progress. The consequences of unemployment are felt in interdependent industries and markets. On the other hand all society benefits when workers prosper. To tell workers where they can get jobs for which they are suited, seems the obvious thing to do. Industries could be served efficiently and quickly by a national employment service. Such a service would be a boon to workers.

The American Federation of Labor heartily indorses the bill before the committee providing for a national service with the cooperation of the various States.

Such a service would meet the normal needs of industry and workers as well as help in meeting emergency situations. An adequate national system of employment services must establish the standards and practices to be followed in local offices.

In order that this service may have the confidence of industry and labor, there should be understanding and approval of policies and decisions by those directly concerned. This sort of confidence can come only from participation in policy making. There should be, therefore, an advisory council in which labor and industry should have representation.

In addition to workers looking for new jobs there are workers with social handicaps, such as the older worker and workers displaced by technological changes.

We hear of many industries that refuse employment to workers past certain age limits and the plight of many of these persons who must work to live is truly pitiable. As a nation we should make some effort to help these workers to find a way to self-support, for middle-aged workers denied employment merely because of age, augment the ranks of the unemployed. There should be job analysis to establish job requirements and to find types of work for which older members are suited. Experience and responsibility are of special value in some kinds of work.

TECHNOLOGICAL UNEMPLOYMENT

Technological unemployment is no new thing but the rate at which it has been developing in the past 10 years makes it a special problem.

A wage earner must have a job in order to meet his living expenses. As his reserve margins are small, loss of his job is the shadow of the great fear that is the background of labor thinking. It is bad to lose a job but it is a catastrophe to lose one's trade skill. When craft skill is "transferred to a machine" the craftsman is industrially bankrupt. Craft skill that was an investment of a lifetime of work goes to the industrial scrap heap when scientists find new processes or inventors produce new machines. Their trades are gone and because workers must live, they seek jobs in other callings—often at lower incomes and with consequent lower standards of living.

On the other hand technical progress means more things at lower prices and consequently more physical comforts and greater ease of living for greater numbers of people. Technical progress is the means to higher material civilization. Progress comes from change. Change means dislocation. It is a sad commentary that individual wage earners have paid the social costs of technological progress in industry.

What thought has been given to musicians displaced by music reproductions, to the art of the actor forgotten in the latest movietone? To the Morse operator displaced by the teletype, to the steel worker displaced by a new process, to the carpenter watching a house assembled by units, to the printer turned out by the teletypesetter? Such workers in thousands have been turned out without jobs, and without the possibility of future employment in the craft in which they have invested their all.

Here are a few of the changes which have made jobs scarce: Take for instance the manufacture of electric-light bulbs. In 1918 it took one man a whole day to make 40 electric light bulbs. The next year came a machine that made 73,000 bulbs in 24 hours.[3] Each of these machines threw 992 men out of work. In the boot and shoe industry, 100 machines take the place of 25,000 men. In the manufacture of razor blades, one man can now turn out 32,000 blades in the same time needed for 500 in 1913. In automobile factories similar changes have taken place. In a Middle Western State to-day, a huge machine turns out completed automobile frames almost untouched by human hand. About 200 men are needed to supervise this vast machine, and they turn out between 7,000 and 9,000 frames a day. Compare this with a well-known automobile plant in Central Europe where the same number of men are making automobile frames by older methods. They turn out 35 frames a day. In steel blast furances 7 men now do the work of 60 in casting pig iron, and even in the last two years, since 1927, the improvements in technical processes have reduced the necessary work force in the Bessemer process by 24 per cent. In machine shops, one man with a "gang" of semiautomatic machines replaces 25 skilled mechanics. Thirty workers with ten machines can now do the work of 240 in the Sun Tube Corporation machine shop. A new machine installed by the DeForrest Radio Co. will turn out 2,000 tubes an hour with 3 operatives as against 150 tubes from the old machine with 40 operators.

What happens to these displaced workers? Take the record for all manufacturing industry in the United States. In the decade from 1899 to 1909, production increased 59 per cent. Improved machinery played some part in this increase, but it was largely made possible by taking on more wage earners, for the number

[3] Magazine of Wall Street.

of wage earners employed by our factories increased 40 per cent from 1899 to 1909; that is, 1,903,000 more wage earners were taken on to bring about this 59 per cent increase in production.[4] Similarly in the decade from 1909 to 1919, production increased 35 per cent and employment increased 38 per cent. Increased production was made possible by employing 2,481,000 more wage earners. This meant jobs for nearly two and a half million more men and women.

Now in the decade from 1919 to 1929 developments took an entirely different turn. Production increased as before, so that our plants were turning out 42 per cent more in 1929 than in 1919. But this increase was made possible without any increase in the number of wage earners employed. Employment actually decreased 7 per cent from 1919 to 1929. Forty-two per cent more goods were produced with 585,000 fewer workers. This general increase was made possible by the introduction of new machinery and modern methods of manufacture. Increasing production instead of creating more work, actually took away 585,000 jobs.[5]

The producing power of the average wage earner increased 11 per cent in the 20 years from 1899 to 1919; but in the short space of 10 years from 1919 to 1929 (half as long) it increased 53 per cent.[5]

These great changes have so limited the number of wage earners needed in our manufacturing industries that men and women are forced to walk the streets, looking for work. To be sure some jobs are created in the service industries, where employment has been increasing in the last decade, but these are not nearly enough to make up for the change in manufacturing.

Although technological unemployment is no new story, the rate at which technical progress has come in the past 25 years makes displacement of workers a very different problem. The rapidity and the scope of scientific progress has made technical procedure practically fluid. The period of recent economic prosperity made it possible for industries to install the newest machinery and the newest processes without hesitation. Abundance of capital facilitated the development of new industries.

These new industries have helped to absorb workers released by older industries. But some of the new industries, particularly automobiles, are most unstable and have by far the highest fluctuation in pay rolls of all industries.

During June of 1929 industrial production in the United States reached a new record peak. Even this stupendous output failed to supply employment to all seeking work. The records of the American Federation of Labor showed 9 per cent unemployment among trade-union workers during that period of record breaking production. In the summer of 1927 the Federation had been sensitive to recurring reports of unemployment from all parts of the country and instituted a system of monthly reports from the local unions in 24 industrial centers. The summary of these records is an interesting document. We are satisfied that the sustained high rate reflects among other forces unemployment due to mechanization of industry.

Nearly one-third of the wage earners in the United States depend on manufacturing industries for their jobs. Our wage earner population is increasing, while jobs in manufacturing industry decrease. Since 1919, the normal increase in population has brought over five and a half million more persons who want work as wage earners, while jobs in manufacturing have decreased by 585,000. Thus we need more than six million new jobs.

The "newer" industries, such as gasoline stations and automobile repair shops, barber shops and beauty parlors, hotels and restaurants, have given work to some of this army of job seekers, for employment has been increasing in these lines. Professional work has also been increasing; there are more teachers, doctors, dentists, oculists. But all these new industries put together have not been nearly enough to take care of the six million who want work. A recent study of 754 persons laid off from manufacturing plants show that only 15 per cent were able to find work in these "newer" industries.

Also there is the problem of job adjustment. For a man laid off in a steel mill where new machinery has just been installed, can not go tomorrow and take up work as a barber, and he certainly is not prepared for the professions. Even in hotel and restaurant work and in gasoline stations, where less training is required, there are new skills to be learned, and men with experience are likely to have preference.

The problem facing these workers who are laid off from their job is well illustrated by the above mentioned study, covering 754 wage earners laid off from

[4] Figures from census Monograph, "The Growth of Manufactures, United States Bureau of Census."
[5] Figures from Federal Reserve Board, United States Census of Manufactures.

factories in three American cities in 1928.[6] The study showed that it is by no means easy to find work. Of those who were able to find employment, only 11.5 per cent were able to find a job in less than a month's time. Over 60 per cent, that is, nearly two-thirds, had been out of work for more than 3 months, and 32 per cent, nearly one-third, were out for six months or more. Thirty-five persons, or 5 per cent, had been out for a year.

Most of these wage earners had to support themselves and their families by drawing out their savings accounts during this long period of unemployment. Less than one-third (only 31 per cent) were able to find temporary employment of any sort. This meant serious privation and often permanently lowered living standards for their families. Children at school have to go to work at times like these; boarders must be taken in, often overcrowding the family; debts are run up at the grocer's and other stores; and savings accounts, often put by through years of sacrifice in order to give the children a chance, are drawn out and the children never have the start in life that would enable them to make something of their abilities. The study shows that of the men who were able to find work, nearly half (48 per cent) had to take a lower salary, meaning a further reduction in the standard of living, a further sacrifice for father and mother, and more lost opportunities for the children.

The problem of adjustment, of learning new skills in new jobs is also well brought by this study. Less than one-tenth of those wage earners who were laid off were able to get back again to their old jobs. Only one-third of those who found work were able even to secure employment in the same industry. For most of them (54 per cent) the layoff meant a complete change of work so that old skills, learned often through years of training and experience, and bringing high pay, were useless and they had to begin all over again at the bottom and learn a new trade, at lower pay. Trained cutters with years of experience in the clothing industries found work as attendants at gasoline stations, watchmen in warehouses, clerks in meat markets; a machinist was selling hosiery for a mail order house; a skilled lathe operator was running a mixer in a cement brick plant; a licensed engineer took work as a caretaker in a public park; a skilled welding machine operator became a farm hand. And so the story goes.

For the older workers the problem of finding new work was far more difficult than the younger. Few of the men over 45 were able to find work and some of them were out for long periods. The price of our industrial progress is too often paid by the man over 45, who has reached just the age when his children are in their teens and his income counts most for their future.

Two very diverse policies accompany mechanization of industry. The time of the employed worker has become of much greater value and every effort is made to increase his productivity. The displaced worker is as ruthlessly scrapped as an out-of-date machine—even with less concern, for every well-managed institution has an amortization fund to provide against obsolete machines.

Men who have given years of their lives to producing the products upon which the reputation of the industry rests, are discharged without any consideration for what they have invested in the industry. Neither industries nor society has worked out a plan for meeting either separate or joint indebtedness to workers who lose that society may gain.

A dismissal wage to help absorb the "shock" is paid by some few industries, but this is not adequate to meet the problem of readjustment. Organized labor is spokesman for these victims of the progress of industrial technology. We urge the following proposals for meeting the needs of these workless individuals:

LABOR'S PROGRAM

Shorter daily and weekly work periods in order that more workers shall be employed and all shall have leisure to enjoy the products of industry.

Higher incomes for wage earners in order that this vast potential market may be able through its purchases to stimulate industries to their full capacity.

A system of Federal employment agencies for the workless so that they may have most efficient services in finding all possible work opportunities.

A vocational guidance service connected with employment offices to help workers whose crafts are displaced by new production methods, to equip themselves for positions under new industrial conditions.

[1] Study by Isador Lubin, Institute of Economics.

MEMORANDUM OF THE AMERICAN FEDERATION OF LABOR IN SUPPORT OF SENATE BILL 3060 TO ESTABLISH A NATIONAL EMPLOYMENT SYSTEM, ETC.

The above-mentioned bill, now under consideration by this committee, has two aspects, one sociological and the other legal or constitutional.

The two principal attacks upon the bill have been made by Senator Bingham in a public address on June 7, 1930, a summary of which address is to be found in The United States Daily of Washington, D. C., June 9, 1930; and the other is a brief filed by the National Association of Manufacturers with the Senate Committee on Commerce.

Senator Bingham attacks the bill on four principal grounds namely:

First. Because it seeks to seduce or bribe the States to surrender a vital power of self government, etc.

Second. Because it proceeds to coerce the State into acceptance of assistance from the United States and dominant Federal control.

Third. That the policy of the bill is in contradiction of the recommendations of the President's conference of unemployment of 1921.

Fourth. That the bill is in contradiction of the recommendations of the representative conference on unemployment and undertakes to compel rather than to persuade the cooperation of the States.

Further Senator Bingham is quoted as saying:

"We are continually trespassing upon the rights of the States, and are centralizing the authority that belongs to them, in agencies of the National Government."

In its brief above referred to, the National Association of Manufacturers attacks the bill on some of the grounds stated by Senator Bingham but principally upon the ground that the bill is unconstitutional.

The statements of opposition voiced by Senator Bingham and others against the necessity of a centralized employment system, so far as the sociological phase of the bill is concerned and so far as relates to the necessity and demand for the enactment of the bill, appear to be fully answered by the testimony of Senator Wagner and others who appeared before the Senate Committee on Commerce on March 18 and April 1, 1930, together with the statistics contained in the digest filed by Senator Wagner in connection with his testimony before the Senate committee; and in the public address of Senator Wagner, printed in the Congressional Record of May 27, 1930; as well as in the memorandum of Senator Wagner in opposition to the above mentioned brief of the National Manufacturers' Association.

It, therefore, remains only to discuss the constitutional questions raised by and the cases cited in the brief of the National Manufacturers' Association, and to supplement the authorities cited in the last mentioned memorandum of Senator Wagner, who cites, in support of the constitutionality of the bill, the following:

McGehee *v.* Mathis (4 Wall. 143–153); Federal Aid Legislation by Professor Charles K. Burdick (8 Cornell Law Quarterly); and Spending Power of Congress, by Prof. Edward S. Corwin (36 Harvard Law Review, 548).

In considering the bill, "To provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," it is important to ascertain:

First. Whether the employment situation is a question of national importance.

Second. Whether the employment situation, if found to be of national importance, is such as to justify and warrant legislation by Congress to establish an agency having for its purpose the bringing about of stabilized employment and to aid workers in obtaining employment.

Third. Whether or not such legislation is constitutional.

That the employment situation is a matter of national importance is clear when we consider the situation now existing in England and the Continental countries, the vast numbers of the unemployed in those countries, the lengths to which England has been compelled to go in an endeavor to provide for the existing conditions, and the vast amount of money she has been compelled to appropriate and expend in an endeavor to ameliorate the circumstances of the unemployed.

It is not necessary to cite any facts to stress the importance of this question to the United States and the States, and the necessity and demand for remedial legislation, other than those set out in the testimony before the Senate committee, and the public address and memorandum of Senator Wagner, above referred to.

It must be admitted that the employment situation is one of national importance. Conditions of today have materially changed from those of years ago, and the employee can no longer limit himself to any one city, county or State in seeking work for his livelihood, but must, if he is to secure employment, look,

from time to time, to the country as a whole, and ascertain in what particular part of the country he can find employment.

The individual States have not undertaken to collaborate with their sister States and with the Federal Government to such an extent as to bring about a proper coordination for obtaining the best results from a national aspect. To accomplish this end there must be some center, that is, there must be some clearing house, and the best and only way to secure this is by Federal legislation establishing a Federal agency which shall cooperate with and aid the States in the endeavor to solve the all-important question of unemployment, so far as the individual States are willing to cooperate through their own legislatures.

The importance of the question of employment is admitted in the brief of the National Association of Manufacturers filed in opposition to the Senate bill 3060, and above referred to. This brief states, page 1, that the association and its members are "vitally interested in employment problems, and, individually and in cooperation, are continually engaged in the study and exchange of information and experience for the purpose of securing a better regularization of employment."

The brief, therefore, concedes that the study of employment problems and the exchange of information and experience upon these problems are of importance. Can there be a more effective way of studying these problems and disseminating information and experience upon the same than by the United States Employment Service provided for in Senate bill 3060?

The above mentioned brief of the National Manufacturers' Association contends (pp. 4 and 5), that the proposed act is unconstitutional. To support this contention the cases of Brazee *v.* Michigan (241 U. S. 340); Adams *v.* Tanner (244 U. S. 594); Ribnik *v.* McBride (277 U. S. 354); Frothingham *v.* Mellon, and Massachusetts *v.* Mellon (262 U. S. 447); Chicago *v.* Tranbarger (238 U. S. 77); and Bailey *v.* Drexel Furniture Co. (259 U. S. 20), are cited.

In the case of Brazee *v.* Michigan, Brazee procured a license to conduct an employment agency in Detroit under act 301, Public Acts of Michigan, 1913, and was thereafter convicted upon a charge of violating its provisions by sending one seeking employment to an employer who had not applied for help. Brazee claimed the Michigan statute was invalid because it conflicted with both the State and Federal Constitutions.

The Supreme Court of Michigan sustained the Michigan statute and the Supreme Court of the United States held that a State may require licensees for employment agencies and prescribe reasonable regulation in respect to them, to be enforced according to the legal discretion of a commissioner. The judgment of the lower court was affirmed and the constitutionality of the act with respect to the sections in question was upheld. The court did state that the provisions of the act in respect of fees were "plainly mischievous." The act in question in no way attempts to regulate private employment agencies nor to prescribe fees that the agency may charge.

This case is in fact an authority to the effect that Congress has the power to legislate on the question.

Another case cited in the brief of the association is Ribnik *v.* McBride (277 U. S. 354). The State of New Jersey passed an act to regulate employment agencies, which act required a license and also required that the applicant file with the commissioner of labor a schedule of fees. A schedule of proposed fees was filed and the commissioner refused to grant a license upon the sole ground that the fees set out in the schedule were excessive. The question of the constitutionality of the act was involved. The Supreme Court of the United States, reversing the Court of Errors and Appeals of New Jersey, held that the provision regulating fees of private employment agencies was unconstitutional, ruling that the business of an employment agency is not affected with a public interest so as to enable the State to fix the charges to made for the service rendered.

Mr. Justice Sanford concurred with the majority on the ground that he could not distinguish an earlier decision (273 U. S. 418); and Mr. Justice Stone delivered a vigorous dissenting opinion in which Mr. Justice Holmes and Mr. Justice Brandeis joined.

The present bill contains no similar provision, and there is not a word in the decision of the Supreme Court which would in any way indicate that Congress did not have the power to establish a Federal employment agency.

Adams *v.* Tanner (244 U. S. 594), is also cited in the brief of the association as an authority in support of its contention that the proposed act is unconstitutional. Appellants conducted in Spokane well established employment agencies for securing employment for patrons who paid fees therefor. An act by the State of Washington was passed prohibiting charging employees fees for such service. Appellants filed a bill in equity in the United States district court to restrain the

enforcement of the act alleging it to be unconstitutional. The Supreme Court, on appeal, held the act violated the fourteenth amendment. The sole ground upon which the court based its conclusion was that the State did not have the power to prohibit private employment agencies from charging an employee a fee.

This question is not involved in the proposed legislation, and the case does not in any way suggest that such legislation as is now under consideration would be unconstitutional.

In the last mentioned case Mr. Justice Brandeis delivered a very strong and illuminating dissenting opinion in which Mr. Justice Holmes and Mr. Justice Clarke concurred. Mr. Justice McKenna also dissented.

Mr. Justice Brandeis reviewed the evils of private employment bureaus, the necessity of aid in solving the employment question by the Federal Government and reviewed the Federal legislation having for its purpose the solution of the larger problems of unemployment. He referred to the immigration act of February 20, 1907 (34 Stat. 898) which created within the Bureau of Immigration and Naturalization a division of information charged with the duty of promoting "a beneficial distribution of aliens". The services rendered by this division included, among others, some commonly performed by employment agencies; it undertook to place aliens in positions of employment but its operations were national in scope. He also referred to the act of March 4, 1913, creating the Department of Labor, which act resulted in the transfer of the Bureau of Immigration, including the division of information, to that department (37 Stat. 736).

Mr. Justice Brandeis stated, page 607: "By this transfer the scope of the division's work was enlarged to correspond with the broad powers of the Labor Department. These were declared by Congress to be 'to foster, promote and develop the welfare of the wage earners of the United States, to improve their working conditions and to advance their opportunities for profitable employment.'"

The underlying principle of the sections of the above mentioned acts is the same as the underlying principle of the proposed legislation, the only difference being that the proposed legislation affords a greater opportunity for service by the Federal Government in cooperation with the States.

The question of the constitutionality of legislation along the lines of the pending bill was not involved in the case; but the dissenting opinion of Mr. Justice Brandeis apparently anticipated further progress in legislation of this type and clearly and emphatically shows that such legislation is constitutional.

In the case of Chicago & A. R. R. Co. *v.* Tranbarger (238 U. S. 77), cited in the brief of the association, the Supreme Court had under consideration a statute of Missouri requiring railroads to open drains across and through its right of way and road bed so as to form proper drainage. The property owner sued the railroad company for damages growing out of its failure to comply with this statute. The railroad defended upon the ground that the law was ex post facto and also a violation of the provisions of the fourteenth amendment. The Supreme Court of the United States affirmed the Supreme Court of Missouri, holding the act to be valid and constitutional, stating the answer to the claim that the law was ex post facto to be that the law is not retroactive but only becomes effective within three months after its passage. As to the constitutional question, the Supreme Court held that the State had the right under its police power to enact such legislation.

The question before the court in that case is totally different from any of the questions presented in the proposed legislation and certainly is not an authority to support the unconstitutionality of the pending bill.

Not a single case cited in the brief supports its contention, several of the cases, as above pointed out, and especially the Frothingham case, infra, show that the proposed legislation is constitutional.

Commonwealth of Massachusetts *v.* Mellon and Frothingham *v.* Mellon (262 U. S. 447), is also cited in the brief to support the contention that the proposed act is unconstitutional. The Supreme Court in this case had under consideration the maternity act (42 Stat. 224). The provisions of the maternity act, in so far as concerns the appropriation of money by Congress to be allocated to the States upon the acceptance of the benefits and compliance with the requirements by the States, are analagous with the provisions of the pending bill. It was contended, in that case, that the act was unconstitutional. The Supreme Court dismissed the appeal because of lack of jurisdiction and not upon the merits of the case. There are certain statements of the court which clearly indicate that the court, however, was of the opinion that the act was constitutional and which also clearly answer some of the contentions made in the brief of the association as to the proposed legislation. The court stated, page 480:

"Probably it would be sufficient to point out that the powers of the State are not invaded, since the statute imposes no obligation, but simply extends an option which the State is free to accept or reject."

At page 482, the court further stated:

"What, then, is the nature of the right of the State here asserted, and how is it affected by this statute? Reduced to its simplest terms, it is alleged that the statute constitutes an attempt to legislate outside the powers granted to Congress by the Constitution, and within the field of local powers exclusively reserved to the States. Nothing is added to the force or effect of this assertion by the further incidental allegations that the ulterior purpose of Congress thereby was to induce the States to yield a portion of their sovereign rights; that the burden of the appropriations falls unequally upon the several States; and that there is imposed upon the States an illegal and unconstitutional option either to yield to the Federal government a part of their reserved rights, or lose their share of the moneys appropriated. But what burden is imposed upon the States, unequally or otherwise? Certainly there is none, unless it be the burden of taxation, and that falls upon their inhabitants, who are within the taxing power of Congress as well as that of the States where they reside. Nor does the statute require the States to do or to yield anything. If Congress enacted it with the ulterior purpose of tempting them to yield, that purpose may be effectively frustrated by the simple expedient of not yielding.

"In the last analysis, the complaint of the plaintiff State is brought to the naked contention that Congress has usurped the reserved powers of the several States by the mere enactment of the statute, though nothing has been done and nothing is to be done without their consent; and it is plain that that question, as it is thus presented, is political, and not judicial, in character, and therefore is not a matter which admits of the exercise of the judicial power."

No more complete and convincing answer can be made to the contentions of Senator Bingham and to the brief of the National Manufacturers Association than the foregoing language of Mr. Justice Sutherland delivering the unanimous opinion of the Supreme Court.

The brief of the association also cites the case of Bailey *v.* Drexel Furniture Co. (259 U. S. 20), in which case the Supreme Court had under consideration the child labor tax law of February 24, 1919 (40 Stat. 1057–1138), which imposed a tax of 10 per cent of the net profits of the year upon an employer who knowingly employed any child within the age limits specified in the act. The Supreme Court held that the act was not a valid exercise by Congress of its power of taxation under Article I section 8 of the Constitution, but was an unconstitutional regulation by the use of the so-called tax as a penalty for the employment of child labor in the States and that this was in violation of the tenth amendment to the Constitution.

The act before the court in that case and the proposed legislation (Senate bill 3060) are totally different; and the decision of the court in that case does not suggest in any way, whatsoever, that legislation, as provided for in the proposed act, would be invalid. In that case the validity of the act was defended upon the ground that it was a mere excise tax levied by Congress under its power of taxation. The court held that it was not a taxing act but was in effect a prohibition against employing children below a certain age and the imposition of a penalty for violation of said prohibition.

Finally it is confidently submitted that the pending bill is not only constitutional, but that its enactment is a political and sociological necessity.

Mr. HALL. Mr. Chairman, may I make a parliamentary inquiry? Have not we a rule here that a member, before he can interrogate a witness, should first address the Chair and get permission to do so?

The CHAIRMAN. We have.

Mr. HALL. I really think we ought to do it. Time is precious here. I want to hear what Mr. Green has to say and it is lacking of continuity, through no fault of his own. I say this with all due respect to my friends who interrupted him and whose interrogations were interesting, but we have not the time for it and I think we ought to invoke that rule.

The CHAIRMAN. The committee stands adjourned until 1.30. I will ask the members of the committee to wait for a few minutes for an executive session.

Senator WAGNER. The committee hopes to conclude the hearing to-day, I understand.

The CHAIRMAN. We are here and have permission to sit during the day, so that we are at your service, Senator.

Senator WAGNER. I want to say to the committee I have some witnesses who, I am sure, will interest all of you, who have a very technical knowledge of this whole subject, and I hope the committee will assemble so that they may be heard.

Mr. EMERY. Mr. Chairman, of course representing a very considerable criticism of the measure from employers of substantially between two and a half millions and three millions of men, we are anxious to have the first opportunity we have had, during the course of this discussion, to present our views on this bill. We had no such opportunity in the subcommittee on the Senate side and, while we are at the convenience and service of the committee, if the committee is to sit only to-day, we would like to be assured we will have a fair opportunity to present those criticisms during the course of the committee's sitting.

The CHAIRMAN. You will have a full opportunity.

(The committee thereupon took a recess until 1.30 o'clock p. m.)

AFTER RECESS

The CHAIRMAN. The committee will come to order. Proceed, Senator Wagner.

Senator WAGNER. Mr. Chairman, may I present Dr. Samuel Joseph, professor of economics of the city of New York, who desires to present a petition on behalf of many economists who have studied this question and who approve this legislation.

STATEMENT OF DR. SAMUEL JOSEPH, COLLEGE OF THE CITY OF NEW YORK

Dr. SAMUEL JOSEPH. Mr. Chairman and members of the House Judiciary Committee, it seems as if it were a coincidence, in connection with Doctor Atkinson's petition presented this morning, to learn that at the very same time a body of whose existence we were unaware was circulating this petition, another group of persons was representing the same situation and presenting a somewhat similar petition in the City of New York. It certainly looked like a case of coincidence.

The CHAIRMAN. Or mental telepathy?

Doctor JOSEPH. Probably. This certainly shows how much people think alike. This particular group was different in that they were men and women engaged in social problems and in the economic aspects of labor employment questions.

The members of the committee were principally chosen for their expert knowledge in this field and interest in the situation; and they consisted of: David C. Adie; John B. Andrews; Paul F. Brissenden; Robert E. Chaddock; Joseph P. Chamberlain; Edward T. Devine; John A. Fitch; Mary B. Gilson; Shelby M. Harrison; Samuel A. Lewisohn; Thomas I. Parkinson; Harlow S. Person; Henry R. Seager;

Mary van Kleeck; Lillian D. Wald; and Walter M. West, the secretary of the Association of Social Workers.

In a very short time we sent out a letter to 700 persons well known for their experience and knowledge and special interest in these problems of employment, from the very nature of their work; and some 300 odd telegrams and letters came back in the last few days to me, with only one refusal, gentlemen, and two "collect" telegrams. And I submit that to you, in view of the fact that of all the 700 letters sent out, to which we got over 300 replies, only two of those reply telegrams were sent "collect."

May I read briefly first, the letter which these several hundred professors of economics and social workers and leaders of various social agencies have signed? It was a letter prepared by this committee whose names I have read. It is as follows:

The following statement presents for your consideration the opinions of the undersigned with regard to the three unemployment bills (S. 3059, 3060, 3061) already passed by the Senate. The signatories are actively engaged as social workers, statisticians, economists, sociologists, specialists in labor problems, personnel management and business administration.

We believe that these bills, taken as a unit, lay the foundations for a permanent national program for preventing or relieving widespread unemployment.

The evils resulting from wholesale unemployment or intermittent employment are too well known to require further discussion. The situation has been properly described as the greatest economic blot on our industrial system. Its effects on industry and social welfare have been examined by many conferences and commissions. There has been general agreement that it is possible to anticipate long periods of unemployment such as we have just experienced. As to the measures to be taken, the two bills before your committee (for more efficient employment offices and better planned public works) are practicable and widely approved. The third bill (for better statistics) has already been reported favorably by the Committee on Labor.

The principle of public works as a means of creating employment in times of depression has been widely accepted. Apart from the fact that large numbers of men will be kept at work on governmental projects planned in advance, the example of the Federal Government will stimulate States, counties, and cities to act similarly. In addition many industries supplying materials will be stimulated so that the effect will be nation-wide and cumulative.

The need for a nation-wide system of public employment offices has become more acute because of the large and rapid shifts, both industrially and geographically, in the demand for labor. Workmen in greater numbers than ever before find it necessary to move to different cities, states, or to new industries in order to keep at work. From every standpoint it is desirable to reduce the period between jobs. This situation calls for a widespread, well-coordinated system of employment offices manned by an adequate, trained staff and commanding the confidence of both employers and employees. More effective cooperation between the Federal employment service and the state and local services is necessary.

We earnestly hope that your committee will act favorably and promptly upon these two bills, so that they, with the bill for accurate statistics, can be passed by the House before Congress adjourns.

That letter is signed by a very considerable number of men prominent in this field, and I will leave a list of their names with you to be incorporated in your report.

(List of names attached to original transcript:)

F. W. Taussig, Harvard University.
H. A. Millis, University of Chicago.
Irving Fisher, Yale University.
George E. Barnett, Johns Hopkins University.
Sidney Hillman, Amalgamated Clothing Workers of America.
John R. Commons, University of Wisconsin.
John A. Ryan, Catholic University, Washington, D. C.
Otto T. Mallery, Philadelphia, Pa.
John Bates Clark, New York, N. Y.

Edith Abbott, University of Chicago.
Davis R. Dewey, Massachusetts Institute of Technology.
Edward A. Fileno, Boston, Mass.
Hastings H. Hart, Russell Sage Foundation.
Royal Moeker, New Haven, Conn.
Frank A. Fetter, Princeton University.
S. P. Breckenridge, University of Chicago
Joseph H, Willits, University of Pennsylvania.
Clyde L. King, University of Pennsylvania.
I. M. Rubinow, Cincinnati, Ohio.
Mary E. Woolley, Mount Holyoke College.
Carroll W. Doten, Massachusetts Institute of Technology.
James M. Mulenbach, Chicago Church Federation.
John M. Brewer, Harvard University.
E. W. Kemmerer, Princeton University.
Willford I. King, New York University.
J. M. Clark, Westport, Conn.
Roswell C. McCrea, Columbia University.
David A. McCabe, Princeton University.
Richard K. Conant, Boston, Mass.
F. Stuart Chapin, Social Science Abstracts, New York, N. Y.
Walton H. Hamilton, Yale University.
H. G. Moulton, The Brookings Institution, Washington, D. C.
W. M. Leiserson, Antioch College, Ohio.
B. M. Squires, Chairman, Trade Board Men's Clothing Industry, Chicago, Ill.
Bruce D. Mudgett, University of Minnesota.
Emery R. Hayhurst, M. D., Chairman, Department Public Health, Ohio State University.
John Le Rossignol, University of Nebraska.
Chase Going Woodhouse, Greensboro, N. C.
Faith Fairfield Gordon, Greensboro, N. C.
Stuart A. Queen, University of Kansas.
Meredith B. Given, New York, N. Y.
Alfred L. Bernheim, The Labor Bureau Inc., New York, N. Y.
Jerome Davis, Yale University.
Carter Goodrich, University of Michigan.
Malcolm M. Willey, University of Minnesota.
D. D. Carroll, University of North Carolina.
Henry P. Fairchild, New York University.
Hazel Kyrk, University of Chicago.
S. Howard Patterson, University of Pennsylvania.
E. C. Robbins, Harvard University.
Morris A. Copeland, Cornell University.
Paul T. Homan, Cornell University.
Dwight Sanderson, Cornell University.
H. L. Reed, Cornell University.
E. B. McNatt, Cornell University.
L. A. Froman, Cornell University.
Philip S. Gamble, Cornell University.
J. W. Hathcock, Cornell University.
Paul M. O'Leary, Cornell University.
Ernest S. Bradford, College of the City of New York.
Michael M. Davis, Chicago, Ill.
H. L. Lurie, Chicago, Ill.
Seba Eldridge, University of Kansas.
E. George Payne, New York University.
Louis S. Reed, New York University.
A. A. Friedrich, New York University.
N. I. Stone, New York, N. Y.
Stuart A. Rice, University of Pennsylvania.
Sidney L. Gulick, Federal Council of the Churches of Christ in America.
Robert L. Hale, Columbia University.
Ordway Tead, New York, N. Y.
Rockwell D. Hunt, dean, Graduate School, University of Southern California.
Neva R. Deardorff, director, Research Bureau Welfare Council, New York. N. Y.
Fred H. Hoehler, Department of Public Welfare, Cincinnati, Ohio.
H. U. Hoyer, Labor Commission, Des Moines, Iowa.

Emil Frankel, State House, Trenton, N. J.
Earl Edward Eubank, Cincinnati, Ohio.
Newell L. Sims, Oberlin College.
William B. Millar, general secretary, Greater New York Federation Churches.
Broadus Mitchell, Johns Hopkins University.
G. T. Schwemming, University of North Carolina.
Raymond Clapp, Welfare Federation of Cleveland.
Dorothea de Schweinitz, University of Pennsylvania.
Howard P. Becker, Philadelphia, Pa.
Arthur E. Suffern, Federal Council Churches of Christ, in America.
Roswell F. Phelps, director of statistics, Department of Labor and Industries Commonwealth of Massachusetts.
Franklin N. Brewer, Philadelphia, Pa.
Alice S. Cheyney.
Edward L. Byers, commissioner of labor, Rhode Island.
Trigant Burrow, New York, N. Y.
C. C. Carstens, executive director Child Welfare League of America.
Victor S. Clark, Library of Congress, Washington, D. C.
Kate Holladay Claghorn, New York School for Social Work.
Joanna C. Colcord, Russell Sage Foundation, New York, N. Y.
Robert C. Dexter, Boston, Mass.
Russell J. Eldridge, State director of employment, New Jersey.
George L. Ford, Federated Churches, Youngstown, Ohio.
George G. Groat, University of Vermont.
N. Kelley, New York, N. Y.
Alfred A. Knopf, New York, N. Y.
Edward D. Lynde, Associated Charities, Cleveland, Ohio.
Natalie B. Kimber, Philadelphia, Pa.
Alvin S. Johnson, New School for Social Research.
E. J. Hutchinson, Barnard College.
Howell Hart, Bryn Mawr College.
F. H. Hankins, Smith College.
Willystine Goodsell, Teachers College.
Charles O. Hardy, The Brookings Institution, Washington, D. C.
Henry R. Linville, Teacher's Union.
Sarah Ivins, New York School of Social Work.
Henry W. Lawrence, Connecticut College.
Reynold E. Luhn, Community Welfare League, Holyoke, Mass.
E. Glenn Callen, professor of sociology, Nebraska Wesleyan, Lincoln, Nebraska.
Henry Pearce Atkins, Cincinnati, Ohio.
Mary E. Boretz, New York, N. Y.
Ethelwynn R. Beckwith, Milwaukee, Wis.
Bleecker Marquette, executive secretary, Cincinnati Public Health Federation.
P. D. Neislar, Texarkana, Ark.
Norman S. Coleman, Portland, Oreg.
Annetta Dieckmann, Buffalo, N. Y.
Louise E. Schultz, superintendent division, women and children, Industrial Commission of Minnesota.
Clifford Kirkpatrick, University of Pennsylvania.
Harry W. Laidler, executive director, League for Industrial Democracy.
Bert Robinson, United States Department of Labor, Indianapolis, Ind.
Justus R. Moll, Springfield, Mo.
E. J. Arnot, Director, The Welfare Building, Pontiac, Mich.
Jessie M. Austin, director of Vocational Bureau, Cicero, Ill.
Frederic W. Heinrichs, Woodstock, Conn.
John J. Egan, Connecticut Federation of Labor, Bridgeport, Conn.
John Hopkins Hall, jr., United States Department of Labor, Richmond, Va.
Mrs. M. L. West, United States Department of Labor, Richmond, Va.
Frieda S. Miller, Department of Labor, New York, N. Y.
Rose Moriarity, Cleveland, Ohio.
F. J. Ohern, president, St. Mary's College, Kansas.
Emma T. Parsons, Columbus, Ohio.
Anna B. Pratt, Philadelphia, Pa.
Mrs. T. S. Adams, New Haven, Conn.
J. Howard Branson, Philadelphia, Pa.
Raymond G. Fuller, New York, N. Y.
Paul L. Benjamin, Louisville, Ky.
Margaret C. Maule, Bryn Mawr, Pa.

Carol Bates, St. Louis, Mo.
Roberta Morgan, Birmingham, Ala.
Lewis Brunham, Philadelphia, Pa.
Irvin E. Deer, Kansas City, Mo.
Elizabeth S. Magee, Cleveland, Ohio.
Walter D. Britt, New York, N. Y.
Charles O. Beals, Commissioner of Labor, Maine.
Le Roy E. Bowman, Columbia University.
C. O. Fisher, Wesleyan University.
Marion K. McKay, University of Pittsburgh.
Francis Tyson, University of Pittsburgh.
Colston E. Warne, University of Pittsburgh.
Hugh M. Fletcher, University of Pittsburgh.
John M. Ferguson University of Pittsburgh.
Mollie Ray Carroll, Baltimore, Md.
Daniel Brownlee, executive secretary, Dayton Council of Churches.
C. W. Garrett, Philadelphia, Pa.
Elisha M. Friedman, New York, N. Y.
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E. Tallmadge Root, executive secretary, Massachusetts Federation of Churches, Boston, Mass.
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Benjamin E. Martin, Worcester, Mass.
Harold L. Stratton, Worcester, Mass.
Oliver R. Cook, Worcester, Mass.
Bennet F. Gordon, Worcester, Mass.
Agnes Hamilton, New York, N. Y.
Elinor Blackman, New York, N. Y.
Marguerite Marsh, New York, N. Y.
Asher Achinstein, New York, N. Y.
Mary Holmes Stevens Hayes, director Vocational Service for Juniors, New York, N. Y.
Elizabeth C. Alling, New York, N. Y.
Katherine F. Frost, New York, N. Y.
Hannah H. Woolston, Philadelphia, Pa.
Margaret Bliss, New Haven, Conn.
Joseph Reiner, Chicago, Ill.
Miriam V. Ristine, Philadelphia, Pa.
Mary E. Samson, Philadelphia, Pa.
Marian F. Warner, Philadelphia, Pa.
William E. Rodrigues, Chicago, Ill.
Amelia Sears, United Charities, Chicago, Ill.
S. E. Simmonds, Philadelphia, Pa.
Elwood Street, director Community Chest, Washington, D. C.
John M. Trout, New Bedford, Mass.
John C. Ward, Erie, Pa.
Olive P. Williams, Washington, D. C.
E. G. Woodbridge, Portland, Oreg.
James Elbert Cutler, Cleveland, Ohio.
Willard E. Hotchkiss, Palo Alto, Calif.
Mrs. Millie R. Trumbull, Portland, Oreg.
Selah Chamberlain, San Francisco, Calif.
M. J. Karpf, New York, N. Y.
Fay B. Karpf, New York, N. Y.
Frances Naomi Harrison, New York, N. Y.
George J. Anderson, president The Consolidation Coal Co., New York, N. Y.
Abraham Cronback, Cincinnati, Ohio.
Lyford P. Edwards, New York, N. Y.
F. F. Kenkel, Director of Central Bureau, St. Louis, Mo.
Eugene L. Fisk, M. D., New York, N. Y.
Dorothy C. Kahn, Philadelphia, Pa.
David R. Craig, University of Pittsburgh.
Sidney A. Teller, Pittsburgh, Pa.
William Thomson Hanzsche, Trenton.

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Anna S. Burnhan, Philadelphia, Pa.
Lucy P. Eastman, New York, N. Y.
Anna Blakiston Day, Philadelphia, Pa.
Elsie M. Files, Portland, Me.
Ernest G. Draper, New York, N. Y.
Laetitia P. Huston, Philadelphia, Pa.
E. B. Donaldson, Philadelphia, Pa.
Linton B. Swift, Executive Secretary-Family Welfare Association of America.
B. G. Waring, Philadelphia, Pa.
Frank Tannenbaum, Washington, D. C.
Lucy Carlile Watson, Utica, N. Y.
Edwin Knox Mitchell, President, Hardford Council of Churches.
Faith W. Morgan, Richmond, Va.
Laura C. Outerbridge, Philadelphia, Pa.
Anna Owers, Philadelphia, Pa.
George L. Paine, Greater Boston Federation of Churches, Boston, Mass.
Jeannette B. Peabody, Cambridge, Mass.
Bernard J. Rothwell, Boston, Mass.
Caroline A. Slotter, Philadelphia, Pa.
Rebecca G. Smaltz, New York, N. Y.
Boris Stern, Bureau of Labor Statistics, Washington, D. C.
Mrs. William G. Willcox, New York, N. Y.
Agnes Lyall, New York, N. Y.
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Manfred Lilliefors, jr., sexecutive secretary, Social Welfare League, Reading Pa.
Frederick I. Daniels, executive secretary, Childrens Bureau, Syracuse, N. Y.
John W. Elliott, director, American Baptist Publication Society, Philadelphia, Pa.
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Herman, Feldman, Hanover, N. H.
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Kimball Young, Professor of Sociology, University of Wisconsin, Madison, Wis.
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Seth R. Brown, Chief, State Employment Agencies, Los Angeles, Calif.
E. B. Reuter, State Univeristy, Iowa.
B. C. Seiple, Superintendent Department Industrial Relations, Columbus, Ohio.
Rudolph M. Binder, New York University, New York City.
Mrs. Amanda D. Hargis, Commissioner of Labor, Jefferson, Mo.
William Royle, Commissioner of Labor, Carson City, Nev.
Charles McCaffree, Field Secretary, South Dakota Press Association, Sioux Falls, S. Dak.
J. W. Claudy, Executive Secretary, Council of Churches of Christ, Pittsburgh, Pa.
Edward Berman, University of Illinois.
A. P. R. Drucker, Colorado College, Colorado Springs, Colo.
Harry C. Hoffman, Commissioner, Department of Labor, Cheyenne, Wyo.
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Louise Stitt, Department of Economics, Ohio State University, Columbus, Ohio.
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Harry H. Willock, Lillian, Ala.
S. Colum Gilfillan, 5623 Blackstone Avenue, Chicago, Ill.
Miss Mary P. Wheeler, General Secretary, United Charities of St. Paul, St. Paul, Minn.
George A. Miller, president, Omaha Council of Churches, Omaha, Nebr.
John Lewis Gillin, University of Wisconsin, Madison, Wis.
Prof. Eugene M. Kayden, head, Department of Economics, University of the South, Sewanee, Tenn.
Frederick A. Bushee, University of Colorado, Boulder, Colo.
Cecil C. North, Ohio State University, Columbus, Ohio.
E. B. Mittelman, professor of economics, Oregon State College, Corvallis, Oreg.
Charles Wood, 1100 Connecticut Avenue, Washington, D. C.
Percy S. Straus, 151 West Thirty-fourth Street, New York City.
Henry F. Grady, Leonard Ascher, Paul S. Taylor, Louis T. Morgan, A. R. Mowbray, Ralph Cassady, jr., University of California, Berkeley, Calif.
Louis N. Robinson, Swarthmore, Pa.
Thorsten Sellin, editor, The Annals, Philadelphia, Pa.
Willard L. Thorp, Department of Economics, Amherst College, Amherst, Mass.
Whitney Coombs, professor of economics, St. Lawrence University, Canton, N. Y.
Jane Howarth, Young Women's Christian Association, Niagara Falls, N. Y.
Paul Douglas, University of Chicago and Swarthmore (Pa.) College.
Sponsoring committee, all of New York: David C. Adie, John B. Andrews, Paul F. Brissenden, Robert E. Chaddock, Joseph P. Chamberlain, Edward T. Devine, John A. Fitch, Mary B. Gilson, Shelby M. Harrison, Sam A. Lewishon, Thomas I. Perkinson, Harlow S. Person, Henry R. Seager, Mary van Kleeck, Lillian D. Wald, Walter M. West, Samuel Joseph, secretary.

I have the pleasure of presenting this to you, and I thank you very much for the privilege of addressing you.

Senator WAGNER. Miss Frances Perkins is our next speaker, Mr. Chairman. So that the Committee may have some idea of the opportunities Miss Perkins has had to study this question, I will state she is now the head of the State industrial department, which is in the city of New York, and it is the largest and the most important department of our State government. There are some 3,000 employees to carry out the work provided by the labor laws of the State of New York and the workmen's compensation law.

STATEMENT BY MISS FRANCES PERKINS, INDUSTRIAL COMMISSIONER OF THE STATE OF NEW YORK

Miss PERKINS. I am one of those unfortunate public officials who were obliged to face distressed men and women out of work with some explanation of why it was they could not get work, and what the Government was contemplating for their relief. Under those circumstances I have not found they derive much comfort out of the theory of the rights of sovereign States, nor the intricacies of the economic doctrine of laissez faire. Many of us in the State of New York have held out the hope that the Federal Government and the State government would find some of the gross solutions for the problems facing them as individuals. To the man out of work, the problem of unemployment is perhaps the greatest he faces, as Mr. Green

told you this morning. I think enough was said by the principal speakers this morning, and in the questions asked of them by the Members of the committee this morning, to make it clear to all who are sitting here this afternoon, that the problem is an intricate economical problem.

There are a number of economic forces which are contributing to the cause of present unemployment; and a number of problems which make it difficult to find adequate means for the prevention or the relief of unemployment.

These three bills which Senator Wagner has introduced into the Senate, taken together, from what seems to me to be a minimum program, a first step so to speak, the foundation so to speak, for a suitable program of Government assistance toward the solution of the problem of prevention and relief of unemployment. There are two separate sets of activities which must be undertaken—one looking to relief and the other to prevention.

There are many suggestions which can be made or have been made by economists and expert managers of industry for the prevention of unemployment in certain, particular industries, but not on a nationwide basis. In the treatment of the total problem we need the cooperation of the Government and industrial leadership to make any adequate progress. We have today, as has been said often, the combination of three types of nonemployment. We have first the technological unemployment, which Mr. Green discussed before the committee this morning, which is caused by the displacement of men through the introduction of machinery.

Then we have the seasonal unemployment, which has become heavy, with the high peak of unemployment in an industry at one time, and a period of low depression at another. That condition has characterized some of our American industries. Now, in the season of seasonal depression there is always unemployment. It is among those workers where there is a constant fluctuation in employment—and when we have speakers, as we had here refer to unemployment, as "normal unemployment," I am somewhat distressed. I can not conceive of the tragedy of unemployment appearing as "normal" to a man who is out of employment. We should say, probably, the "habitual unemployment" in a given community, rather than the normal unemployment. Now, that can be corrected.

This unemployment due to fluctuations can be taken care of largely by the individual trades and industries themselves; and there is now a determined demand, or a determined effort on the part of the more scientifically managed industries of the United States to do what they call "ironing out the curves" in the production line, and to get the industry on an even keel. So great a company as the Eastman Kodak Co. set before a Government committee the other day, the exact method which they used to divide their production for the year into 12 parts, their manufacturing production, taking their annual production in segments of 12, so as to get an even monthly production, and have their employees continuously employed.

There is another great company, the Bausch & Lomb Co., manufacturers of optical instruments and quality production. They are located at Rochester. Now, having a varied and diversified business product, by the means they have put into operation, they are able to keep the same number of men at work continuously throughout

the twelve months of the years. Both of these companies, the Eastman Kodak Co. and the Bausch-Lomb Co. have told us their payrolls have not varied in the course of a year $300 in any given month in these periods of depression which we have gone through. That was corroborated by a men's clothing company, high class tailors, in Style-Grade clothing. They had worked out a system and had given their people forty-eight weeks work in the year, and they had only three hundred people in their company, a paper company in New York State, in Troy. And there are many thrilling descriptions that come to us from leading industrialists for the establishment of means to prevent unemployment in their own particular industries.

In other words, capable management is taking the problem of seasonal unemployment in hand in a scientific way, and with great goodwill, and with appreciation of the fact that the settlement of that problem is essential for the health of the whole of American industry.

I think it is obvious to every one who has studied the situation over the many years in which we have data, that prosperity in America, in the face of the multitude types of improved machinery, that it depends more and more in extending the consumer market. If we are being able by mass production, to manufacture so many more cameras and high class overcoats and suits and shoes and stockings, then we must find a place to sell them. We must have an extending consumer market. The lowering of the cost of production on these mass-produced goods makes it possible for poorer people to buy them and it brings into the consuming class of the public the wage earners of America. So you see the problem is to build up and keep up the wage-earning consumer market, and maintain the American level in industry and in living.

Now, as I said, the industrialist himself will probably manage to iron out the season curves in production and get rid of seasonal unemployment in industries by diversifying production and by securing advance orders and paying bonuses on advance orders. Procter & Gamble Co. give a reduction or a bonus to people who will order their soap on an annual basis, and so that they can have some basis for a stabilized production program.

These things will go a long way to getting rid of these seasonal unemployment periods; and in that way the Government can give a great deal of help to these people by information collected in a national way.

As to the problem of technological unemployment the industries can do much toward mitigating technological unemployment by timing the introduction of new devices and machinery which save labor, with the object of seeing that they are introduced at the time when they are expanding. That is, they should be introduced when the industry is expanding.

Many employers are aware of that fact and will testify they have introduced their labor-saving machinery and devices in such a way as to take up the natural falling off in the number of employees, who leave their employment.

In this attempt the Government should assist industry by supplying industry with information; with work that can be brought into play at the proper times to take up the slack in employment, the slack in technological employment. And, with the assistance which may come to an industry, where the worker is displaced through unemploy-

ment in that particular industry, of finding other and suitable forms of work.

On the problem of cylical unemployment, no one has dared to say that we will find a preventive of these returning times of business, and therefore of industrial depression. They are frequently due to world economic conditions, and are not within the control of the local Government, or a set of industrialists. Nevertheless, by taking thought of the situation, and by cooperation between the Government and the industrialists, it would seem we could shorten the length of that period of depression, and decrease the depth of that depression, so that we need not go so deep into it without some artificial stimulation, nor so long endured.

This now brings us to the point of considering what value these three bills introduced by Senator Wagner have for carrying out the Government's part of the program.

In the first place we have the bill for collecting statistical information. That is invaluable, as it gives everyone studying the problem the necessary knowledge upon which to proceed. There appears to be no competent objection to that particular bill.

The bill for creating an appropriate reserve for public works is vital. At the exact moment when private industrial employment begins to falter, whether due to the recession of technological unemployment or other cause, the public works program can be put into play just as soon as the collectors of the statistics begin to see there is a falling off of industry in this or in that locality. They can be introduced, a little at a time, the construction on these public works, to take up the unemployed persons thrown out of employment by these periods seasonal or technological unemployment. And when there is a cyclical depression of the world they can shorten the depth of that period of depression as well as the duration of it through this channel of aid.

Let us consider if out of the three million men Mr. Green said are now out of work to-day—I think his estimate is based on trade-union figures, and does not give a complete picture; I think it is nearer 5,000,000 that are out of employment. We have no idea of what the true number is. But, taking his figure, out of that 3,000,000 men, say we can put 1,000,000 of them to work on public works for say 15 days, eight hours a day, and at the regular rate of wages, five days a week. Right away you bring into play a "spenders brigade"—this spenders brigade of 1,000,000 people, they would demand products, and in a moment, you would have a demand for 1,000,000 pairs of shoes, and probably 5,000,000 pairs of socks, and 3,000,000 shirts, and a million suits of clothes, to say nothing of the clothing and bedding and other things which their families would require.

And can you imagine what would happen to the clothing industry when orders for a million suits were thrown to them, or the knitting industry when orders for 5,000,000 pairs of socks came to them, and so on down the line of the things that would be consumed by this spenders brigade? Incidently the mills would begin to work when these people started out to buy stockings and they will take their time to buy other necessities for themselves, and it is easy to see that in a short time the depression is over.

After all, the whole thing is a circle and starting motion at one point, it is transmitted to the adjacent points, and then the whole circle

gets into motion. Public works should be constructed, with that borne in mind, and under the direction of the Executive they would be, for we need only to give work on public works to these men who are joining the ranks of the unemployed in order to stimulate industrial processes enormously.

Now, through the activities of the Public Employment Bureau, you would get first the knowledge of where the opportunities for employment exist. I think it can not be too strongly said, that the gentleman who raised the questions this morning of the possibility of the employment service making jobs where there are no jobs is answered by that. It is the duty of those in the public service to analyze the industrial situation at all times of any community, so as to know exactly the state industries are in; and if a machine throws glass-blowers out of work, he will know other economical trades which are requiring workmen similarly skilled and intelligent where there is an expansion program going on at the same time.

I think there should be a beginning, a trade beginning, so that men and boys will have more than one line of industry in which they are skilled, more than one skill, so that they can pass from one job to another. More and more the employers are recognizing that they must give their men two skills and keep them up. The Government will be aware of and alert too to the opportunities which may come to the man who had been a first-class mechanic and who was laid off because the trade went into abeyance. A man who is a good mechanic in one trade can be put into other trades where at any given time there is expansion going on; and with the wage-earner market so enlarged there will be developed the various services and the luxury trades to give employment to these people.

Now as to the work of the Public Employment Service: We have to-day a public employment service with Federal control; and I, who administer one of these offices in the State of New York, under Federal control, have never felt there was the least bit of inhibition, or the least bit of interference with State rights on the part of the Federal director. There has been harmony and unanimity and cooperation.

Mr. LaGuardia. Are you under the civil service law?

Miss Perkins. I was appointed industrial commissioner by the Governor of the State of New York, and not by the civil service. Mr. Francis I. Jones appointed me when I became director. He appointed me Federal director for the State of New York. That is what he does in every State—he appoints the local officer as the Federal director. All of the subordinate positions are in the civil service, except the head of the department.

Mr. LaGuardia. Are the subordinates paid by the State of New York?

Miss Perkins. Yes, sir; the subordinates are all paid by the State of New York; two or three are paid by the Federal Government.

Mr. LaGuardia. The subordinates are paid and are serving the State of New York?

Miss Perkins. No; they are under the New York State civil service law, and they take their examination and they are recognized and given the designation by the Federal director, as special agent, or superintendent or assistant superintendent; and in that way they have the franking privilege which we get through the Federal director.

Mr. LaGuardia. The subordinates in this office in the State of New York are liable to and paid by the State of New York, and are under the State civil service laws of the State of New York?

Miss Perkins. Yes; except that there are a few in the employment bureau who are employed by and pa'd by the Federal director.

Mr. LaGuardia. Are they under the civil service?

Miss Perkins. I do not know; they are employed by and paid by the Federal director, but they dove-tail their work in with the other people of the department. That is a device by which we get a certain amount of Federal aid for the Federal employment system. This system has, nevertheless, been of invaluable aid to the people of the State. We have 11 offices in the State and we have built up a cooperative system with the help of the municipal and private employment offices of a charitable nature, which were no-fee taking offices.

During the crises we have transferred some of the people in the Department of Labor to these offices temporarily, and this is to show what can be done by cooperation between the State and the city and the private enterprises.

We have been able to step-up the rate of placement, so that our average placement, which was 3,000 per month, until the 1st of February, when it began to go up, and in the month of May we placed 10,000, and all by setting-up a clearing house and collaborating on the jobs daily. Every afternoon by 3 o'clock, through telephone communication and by mail, we clear up over the State, we clear up all our orders for jobs.

So, if there were novelty workers who make pocket-books and things of that kind, needed in the city of Rochester, and there were none at hand there, we can send them from Albany, Syracuse and New York City, or other parts of the State, to Rochester to fill those places.

This has brought inestimable help to the men who wanted to go to a job.

Moreover, these bureaus after getting men for positions for which they have been trained, they will take a man who was a bricklayer for the last 10 years and whom they learn or discover has learned at some time of his life a section of the printer's trade when a boy, or some other skilled trade; and they take him and by a development of his knowledge and experience in that line he may be fitted for a trade in which there is not a lack of employment, or where he can fill in his seasonal slacks. In other words, the development of these bureaus offers an invaluable service to industry and industrial workers, without regard to State lines or boundaries. For it is more and more true that industry does not regard State lines.

We have plants, industrial plants in the State of New York, that have other plants or branch plants in New Jersey or Pennsylvania, and their head men are always going back and forth from one to the head of the other, thus passing from one State to the other. Why should not the citizens of Boston work in the city of Philadelphia when work is slack in Boston and plentiful in Philadelphia, in their own trade? And why should they not know of the fact that there is work in their line in plenty in a near-by city?

That is what this exchange is for. It will not make jobs where there are no jobs; but coupled up with the other programs and the programs for the stabilization of employment which are being promoted by intelligent employers; it seems a very valuable aid to solve one of the problems of unemployment.

Senator Wagner. Dr. William T. Foster, coauthor of the work The Road to Plenty, who has long been a student of economic questions, and one who has written a great deal upon economic subjects, is our next speaker.

STATEMENT OF DR. WILLIAM T. FOSTER

Mr. Foster. Since the morning meeting of this committee, I have heard some objections to these three bills which are held by some of these gentlemen connected with the administration and by others, which are widely known.

Mr. Michener. Suggested by whom?

Mr. Foster. I can not go into that.

Mr. Michener. I would like to know.

Mr. Foster. Then, sir, I am mistaken; it is not widely known.

Mr. Michener. If it is a fact worth mentioning here, it is proper and well for the committee to know that. You should withdraw the statement or amplify it.

Mr. Foster. I will withdraw it, if you please.

Mr. Michener. Very well.

Mr. Celler. Are not the newspapers written so that we find some high in authority in opposition to bills?

Mr. Michener. We are hearing you and you come here as an expert on such matters.

Mr. Foster. I had no idea I would be asked to mention names.

Since the meeting this morning I have heard these objections made to the bill. The chief objection I have heard is that the bills as a whole are trivial and do not go very far. $150,000,000 is only a drop in the bucket, and it is not of much significance. Now, in introducing what I have to say on that subject, I want to say something for two minutes on economical theory. You will see directly, in answer to the questions of whether these bills are merely a drop in the bucket, and it will answer partly the question of a member of the committee as to whether these bills are fundamental. Do they go to the bottom of the subject?—I answer, Yes, they do.

Are they comprehensive answers to the whole problem?—No, they are not. But they are at the bottom and essential and fundamental.

You must do this much no matter what else you do. That is what I mean by saying the three bills are fundamental. In amplification of that I will take you into the change which has come over the entire economical theory in recent years.

A few years ago in the hospitals of the country after an operation the surgeons always spoke of the usual amount of pus it was supposed a patient would have to have taken from him, and it was supposed then that the patient had first to get worse before he could get better. The germs were regarded as undesirable aliens, and no attempt was made to reduce their quota.

At the same time we have heard for generations the phrase "the usual amount of unemployment." It was that to which Miss Perkins has objected in connection with the complaisant acceptance of "the

usual amount of unemployment." We have always talked as if nothing could be done about it.

It seems to me that we have heard for generations the words "the uusual amount of unemployment." We have supposed that evils had to grow worse before business could grow better. It was what was referred to as the economics of original sin. Some writers have tried to show it was due to the spots on the sun.

The economics of original sin is what I would call the economics of despair. It is the economics which have been dominant for generations; and one of the chief reasons why nothing has been done hitherto by governments in a constructive way toward the solution of the problem of unemployment.

Great talk has been made about the necessity of action and reaction. In recent years we have arrived at a different expression of economics. It is the economics of faith; faith in the capacity of men to use their reason to control their economic destiny.

Now, why do I give this long introductory? It is an attempt to point out that these three bills are of more significance than most people realize. They are expressions of the abandonment of economics of original sin and despair. They are expressions of the opinion that we can do something about it. We do not have to sit around and watch business conditions go from bad to worse; before we can make them better.

That is why I say that these are not simply trivial. You may say, for example, as I heard said to-day, that $150,000,000 provided for emergency public works is merely a drop in the bucket. It would provide for 300,000 men employment for 100 days at $5 a day. Even so, to each of these 300,000 men who can go through a winter unemployed, it is not a drop in the bucket. It is very important to them.

Under the bill this is appropriated by advance planning at a time when it is but a measure of prevention. So it provides also for the employment of other men. But that is not the biggest thing about this bill. The biggest thing about this bill is that for the first time in history we have recognition of the principle that the Government of the United States may in its expenditures for the conduct of its own business, take into account the conditions of business in general.

Mr. CELLER. This $150,000,000 is in excess of and in addition to all the other appropriations?

Mr. FOSTER. The bill provides only that this $150,000,000 shall be expended in reference to business conditions as shown by indexes of unemployment, etc.

Mr. CELLER. There would be this in addition to other employment?

Mr. FOSTER. If the bill is unsound in principle it should not pass. If it is sound there is no reason why it should not be extended from time to time to other Federal appropriations which are subject to allocation. As far as visible the principle could be applied to other appropriations of the Government.

Furthermore, it is only carrying out in the realm of public business, what President Hoover last fall urged private business to carry out. He called in the officers of public utilities and railroads and other public bodies, and other large corporations, and urged them in their appropriations to take account of business fluctuations, to appropriate more money when business needed more wages; less money in time of boom, when there was less need for wages to be spent for consumers goods.

He urged that not only upon private business, but also upon the States, and the local municipal governments to take account of this principle in local appropriations.

If that is sound policy for private business, and for State and local governmental business, it is sound for the Federal Government. And that is embodied in this particular group of bills.

Mr. MONTAGUE. Does that mean that an appropriation made for a public building should be held, and then expend it, or would you go on with it irrespective of the general economic conditions of the country?

Mr. FOSTER. Do you mean under the terms of the bill?

Mr. MONTAGUE. I referred to your statement. I am not here to find any fault with it. I want to understand you. I understood you to say that the public moneys for public purposes and public works, of one form or another, should be carried on over a long period with a view to initiating and completing structures here, with regard to the state of employment or unemployment?

Mr. FOSTER. That is the general principle of which I am speaking; that so far as feasible public expenditures should be made with reference to the conditions and the chances of business in general.

Mr. MONTAGUE. I want you to go to Richmond, Va., my city, and make an address on that subject.

Mr. FOSTER. Now, this brings me to the question of whether this whole program is really a national problem. It certainly is a national problem for the reasons mentioned. That we can not take up the slack of unemployment at any time as readily and as quickly and economically as we otherwise could, unless we can move the workers across the State lines. And it is a national problem in this respect, that it demands national leadership. No organization in the United States is large enough or powerful enough for this leadership. If we did not know that to be true theoretically, we would know it to be true from the fact that no such leadership has been taken by the States or the municipalities, nor private industry nor business, when business depression threatened.

No such leadership was underway after the depression of last fall, when the Federal Government took such leadership. Such leadership is necessary, as no one can so appeal to the entire country as the the Federal Government. No agency in the United States; no combination has the power to collect the necessary information to carry out such a program. That is the reason for the bill presented by Senator Wagner, calling for the collection and the spread of information in relation to employment is necessary.

Private interests are incapable of collecting that information. The information from such agencies would be received with suspicion as to its source. Local leadership is not sufficient, as we can see from the present conditions. Business as far as I can see, from a definite and sustained effort to improve the business trend for the last six months, has not improved so that it is noticeable in actual statistics. Business does not get better. It will not get better in my judgment without more powerful and definite action to make it better than we are getting at the present time.

I do not say the passage of these bills will cure this. They are a part of a necessary, constructive program. The Federal Government should have a program and these three things are the necessary

start. Whether more or less should be done is the question. That this should be done there is no question.

And in conclusion, my remarks as to the theory which has come now over the condition of economics generally, I would say, that although economists in the past used to talk of the usual volume of unemployment, and think there was nothing you could do about it, I wish to say that these views are exploded to-day, and in their place has come the economics of faith; and the evidence of the part of faith in economics is shown in the petition which was read to you to-day.

Prof. Paul Douglas who will speak to you here to-day knows at least 200 of the leading professional economists in the United States, and I do not know of one single one who is opposed to the conditions or the principles taken up in these bills. They are fundamentally sound.

Senator WAGNER. Our next speaker is Prof. Paul Douglas, who was formerly a professor of the University of Chicago, and he is now connected with Swarthmore College, of Swarthmore, Pa. He is well known through his fine work on economics entitled "Real Wages."

STATEMENT OF PROF. PAUL DOUGLAS, OF SWARTHMORE COLLEGE, SWARTHMORE, PA.

Professor DOUGLAS. Mr. Chairman and members of the committee, I think one of the greatest advantages which one of the bills (S. 3060) would bring, would be to pool the general labor supply, and reduce the number of workers which individual businesses think at the present time it is necessary to maintain on part time that they may have a reserve for peak periods. In other words, it would lessen the individual labor supplies by pooling them into one general supply. I think I can make clear the saving this method would afford, by taking my example from the work of the longshoremen on the docks.

As you know, work on the docks is irregular and fluctuates from dock to dock. Taking such a harbor as that of New York, you have 10 big steamship companies, and on the least busy day each company needs to employ only 40 men during the week; but on the busiest day of the week each company needs 100 men. But the days of the week when each company is busiest do not coincide. So that on the days in the week on which there is the least business in the harbor as a whole, there would be employed not 400 men, but 500 men; and, similarly, on the day when there is maximum employment in the harbor there will not be employed 1,000 men, but, say 700 men. In other words, on the busy day during the week you will have 300 men unemployed, because each firm will try to maintain 100 men on its own labor reserve in order to serve it when its peak day comes. Then those 100 men will be there for them. And so it will be with each firm or company, each will try to maintain its own labor reserve. Whereas, if you have a central employment office, such as they have in England at Liverpool, and such as Germany has at Hamburg, each firm or company could have 40 men, and therefore 400 men would be employed all the time. And then you would have 300 reserve men and and not 600 attached to the central employment office, who could be sent to the individual docks on their busy day.

That experiment has been worked out in this country in the far west in the city of Seattle, with the result that a small number of

men was able to handle the business of a larger number of men on the docks.

This may decrease the number of men employed, you may say; instead of having 1,000 men partially employed all the time as at present, you would have 400 fully employed and 300 partially employed, and a further 300 squeezed out into other industries, who would be unemployed; but the last 300 men would then be engaged in producing other products.

Mr. SUMNERS. There would be a consuming power, you say, waiting for them? Where will the 300 be that were squeezed out altogether when other industries likewise are dropping them?

Mr. DOUGLAS. Let us suppose in this harbor you had formerly 600 men, 500 being your minimum number employed and 700 the maximum, which would make an average of 600. And suppose they were working 5 days a week at $6 a day, then their weekly pay roll is $18,000. Now, let us suppose there are 1,000 men in the harbor, then their weekly average would be $18 a week, now, you have not increased the total amount of work in the harbor. But something has happened; and what is it that has happened? You have $18,000 now shared among 700 workers, so that they would now earn on an average $26 a week, by dividing the $18,000 among 700 men, you would get $26 a week. Therefore, each person employed would receive $8 more each week than he had before; and there would be 700 people employed who would have this $8 a week more than they had before, or fifty-six hundred dollars more purchasing power, coming from their fuller employment, and that would create opportunities, that increase demand for products for those who were squeezed out.

Mr. SUMNERS. Where are those 300 people now who got squeezed out and who are getting no money at all?

Mr. DOUGLAS. In the first place we should have employment agencies to direct them to the opportunities for employment which will come in the various industries from the expenditure of the increased purchasing power of the other 700.

Mr. SUMNERS. Yes; but how are the 300 fellows who had jobs and were squeezed out in times of depression like these to get jobs?

Mr. DOUGLAS. Do you deny that $5,600 more will be in the pockets of those remaining employed?

Mr. SUMNERS. No, indeed; but what about the 300 who were squeezed out of their jobs and who have no money in their pockets?

Mr. DOUGLAS. Well, I want to call your attention to this question: What will they do with the money, this $5,600 extra purchasing power which the 700 who are employed now have in addition to what they formerly had? You must see they will either spend it or save it.

Mr. SUMNERS. Suppose they do; but what about the 300 of that number aho are now unemployed—getting no money?

Mr. DOUGLAS. I say that it would be better to have the 700 men more fully employed than 1,000 men on partial employment, even more full employed than 1,000 men on partial employment. Even if 300 were thrown out of employment entirely, that fact at least would identify the shortcomings—this fact that there are 300 men out of employment.

Mr. SUMNERS. I do not know that I quite appreciate your point. You say it is not better for 1,000 men to get a smaller wage than 700 to have the full wage and 300 idle?

Mr. DOUGLAS. I say it would be better to concentrate the employment on the 700 men, even though it squeezed 300 out of jobs, and then marshal your machinery to get jobs for the other 300 who were squeezed out.

But then, I am primarily interested in this: Won't there be increased employment for those squeezed out of work by the fact that the others have more purchasing power, more money to spend?

Mr. SUMNERS: I admit in times of great economical depression and believe that it would be better for 1,000 men to have shorter hours, shorter hours for the larger group, than for a portion of them to have full time and the others no working time.

Mr. DOUGLAS. Normally it would be best to squeeze out the water, and release the other men for other industries, confident that the increased purchasing power of those employed full time will sooner or later emerge and show itself in the need for increased industrial production to meet the increased expenditures of those fully employed.

This illustration I have given for the docks presents in a mangified form the tendency which exists throughout industry when you have centralized employment agencies. The business fluctuates and the men will try to build up the business by several passing out of employment, so that when work does come, they know where to get these men and put them on who are only dangling.

Lack of knowledge on the part of the worker operates in the same way. We have all over the country excess reserves at factory gates, who have pooled and they are thrown together and in that way, they can diminish the consequent employment increase. That is the first great argument for any such bill as this. And the central system of employment exchanges will be a gain as it will keep labor from tramping from one factory gate to another seeking work. When employers have to keep this individual reserve, that means they generally have some regular and steady workers; men who can depend on jobs day after day and month after month; and they have workers knowing that their work may be temporary, and that they may almost at any time be in need of other employment.

Now, a central system of employment which would enable employers to know that they can get workers from this central place would be an advantage. It would concentrate employment; steady their work; and increase the efficiency of them, and take off the cost of recruiting.

Mr. SUMNERS. With an organization such as you have indicated, labor would lose, from the point of view of knowing whether or not to employ or contract, and to know where they were going. It is much the same as sending out goods on prior orders or prior sale, as contrasted with sending a shipload of goods out to some point and trying to get sales for them after they arrive.

Mr. DOUGLAS. Men differ from commodities in this, that they can refuse the job and commodities can not refuse the purchaser. The employment exchange forwards men to an employer to be considered by the exployer, and the employer may then reject them or accept them, although in the case of sending them from one city to another, such as from Albany to Rochester or Buffalo, there will have to be some arrangement made to cover the cost of transportation.

Mr. CELLER. How about the families of these working men? Do they migrate with them?

Mr. DOUGLAS. They could. Of course, generally speaking, single men are much more migratory in their habits than married men, and then the automobile of to-day, its wide use, has made migration much more feasible than where railroad fares had to be considered. Of course, it would only move men who wished to go to the new place in search of prospective work, which was being offered in other cities.

Mr. SUMNERS. Down in my country the people used to ship perishable goods to commission markets on consignment, and when they arrived at these markets they would be under great expense of refrigeration and the waste through deterioration; but now they have abandoned that plan and they try to get sales in advance of shipments. I am not now speaking as an "economist" but merely from the viewpoint of plain horse sense.

Mr. DOUGLAS. I am speaking of men moving from one city, where there is no employment, to other cities where there is employment to be had, and where you have a centralized system of labor clearance in the different States.

Mr. LAGUARDIA. It is your idea that the way to relieve the unemployment situation is to employ part of the labor all the time—or is it your idea to employ all the labor part of the time?

Mr. DOUGLAS. I would say that ultimately we should employ all labor all the time.

Mr. LAGUARDIA. From what you have said I am trying to find out whether it is your idea to relieve the unemployment situation, whether it was better to employ part of the labor all of the time, or all of the labor a part of the time.

Mr. DOUGLAS. I would say that with unemployment which exists in prosperous times, it is better to squeeze out the water and get some people who would not have any work at the jobs they previously had, so that they could be placed in jobs where they could work all the time.

Mr. LAGUARDIA. Yes; but I am asking you what your idea is from what you have said to this committee. Now, to relieve this situation, are you advocating and using the illustrations you made a while ago, are you advocating the use of part of the labor all of the time to relieve the unemployment situation?

Mr. DOUGLAS. I think you are unintentionally putting me in a position where my answer will seem heartless and cruel. I say: If it is a choice of giving 1,000 men partial employment as against keeping 700 men fully employed, with the other 300 released for other work elsewhere; I would choose the second alternative.

Mr. LAGUARDIA. Your idea would be to keep all of your labor employed, even though it was part time; or just what is your idea?

Mr. DOUGLAS. I would labor to get all the labor employed the maximum of the time.

Now, there is another advantage I can see for employers, and that is that at the present time, at this moment, there is a costly affair for employers. For instance, there is an establishment in Chicago which hires annually 25,000 workers. To do that hiring of 25,000 workers, they have to interview 250,000 workers; in other words, for every worker employed, they interview 10 employees. That is a very costly thing, and that is duplicated in a large number of other establishments in the country. They must do that as people tramp from place to place, seeking work, and there is no central place to

which the employer can go to find people out of work. The workers' time is lost and the time and money of the employer is lost by this large number of unproductive interviews.

Now, my suggestion is to have central employment offices to do this first sifting; and by that means you can reduce this ratio of applicants to those who get work from 10 to 1, down to 5 to 1. In this particular establishment, they would have to give 125,000 fewer interviews year than they do now and consequently make that big saving.

You say, now, if all those are advantages for the employers, why do some employers oppose these bills? Well, I wish I could be here later in the session to listen to the distinguished counsel of the National Manufacturers Association, who, I am sure, will pardon me if I forecast some of the reasons in his mind.

Mr. SUMNERS. Let me ask you one question, please: I ask the doctor if I correctly understood his statement to the effect that if the Federal Government could find through its consular agencies and commercial attachés abroad, the markets for the products of America, was it his theory that the Government could, on the same principle, find a market for labor?

Mr. DOUGLAS. Of course, the government also helps in finding domestic markets, because the bureau in the Department of Commerce is not merely the Bureau of Foreign Commerce, but the Bureau of Foreign and Domestic Commerce. The point that I wanted to make is that the Government does take an actual concern in finding markets for commodities; should it not take concern also in finding a market for labor?

Now then, is the objection to this system really based on a fear, an opposition to Federal aid? May I point out that the Congress has passed at various times Federal aid bills providing for the protection of the forests against fire, and that that appropriation has been increased since the original Weeks Act.

Mr. HAMMER. We have got one up right now.

Mr. MONTAGUE. Does that mean forests on the public lands belonging to the United States?

Mr. DOUGLAS. It is not merely reforestation.

Mr. MONTAGUE. No, I am talking about fire protection now.

Mr. DOUGLAS. No, it is not merely protection from fires on Government land, but protection from forest fires on private land. It has passed a Federal aid act providing for vocational education; a Federal aid act providing for agricultural extension, upon which the great system of county agents has been built up, and which really gave birth to the American Farm Bureau. It has passed vocational rehabiliation acts, and perhaps most important of all, it has passed the Federal aid to highways act, and for a number of years you have been appropriating $75,000,000 a year for highways, and upon that system of Federal aid the American automobile has moved, and recently I believe Congress has increased that appropriation of $75,000,000 up to $125,000,000. So I can hardly believe that while Congress is affirming sit faith in the principle of Federal aid and increasing it with a generous hand in the matter of highways, that there can be a real reason for denying the passage of this bill.

Mr. MONTAGUE. Do you believe that the aid of the Government in the construction of public highways is analagous to this bill?

Mr. DOUGLAS. Yes, sir. Why not?

Mr. MONTAGUE. Because the public highways are constructed in the interest of two provisions of the Constitution, namely, those establishing the Post Office Department and those establishing interstate commerce. Under those two clauses the United States has taken care of the public highways.

Mr. DOUGLAS. But may I point out—I am not a constitutional lawyer——

Mr. MONTAGUE (interposing). But we have taken an oath to support the Constitution.

Mr. DOUGLAS. But may I point out that Federal aid has been granted to highways that were not interstate in character, and that it has only been in the last eight or nine years, as a matter of fact, that the internal provisions of the Bureau of Highways have been so changed that Federal aid will be given only to highways interstate in character.

Mr. MONTAGUE. If they were not interstate, they were post roads.

Mr. DOUGLAS. Well, if you quote one clause of the Consitution, I will quote another, and I will cite the general welfare clause.

Mr. MONTAGUE. Of course, you can cite that, but any reputable lawyer knows that under the general welfare clause you might run this entire Government.

Mr. DOUGLAS. Well, may I point out, Mr. Representative, that the United States Supreme Court in the case of Massachusetts *v.* Melon——

Mr. MONTAGUE (interposing). Do not understand that I am in opposition to your bill at all, but I simply do not want extreme analogies brought in to support it. You have made a very interesting address, I will say, and I am deeply interested.

Mr. DOUGLAS. Well, after attempting to indicate some of the reasons why I do not think this bill should be opposed, may I turn very frankly to some of the reasons why I think this bill is opposed, and I think those objections should be frankly faced and frankly considered.

I think the chief fear on the part of some groups of manufacturers against this bill is that the employment services would be used to colonize manufacturing plants with union organizers. That is seldom stated and that explicit reason did not appear in the brief of Mr. Emery, for the National Association of Manufacturers, but I have always had the feeling that it was in the back part of Mr. Emery's mind, so I hope Mr. Emery will pardon me if I bring it out in the open. Now I should like very briefly, if I may, to deal with the question as to whether that possibility really presents itself under this bill.

You will note in the first place that this bill explicitly states that the service shall be impartial, neutral in labor disputes, and free from political influence. So there is an explicit statement that their men shall not be sent into plants in order to unionize the plant. Furthermore, you may say this service will be under the direction of the Department of Labor, and the Department of Labor was created in order to further the interests of the workers. I may point out that even if it were to be so that the Department of Labor was under the influence of organized labor, which I doubt, which I do not believe, but that even if it were so, the Director-General is to be appointed by the President and not by the Secretary of Labor.

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Third, I should like to point out that there are to be local joint boards of employers and employees set up in the various localities to advise and help administer this act, and the employers could be on the alert to see that this provision was not violated.

Mr. HICKEY. I take it that the committee is interested primarily in hearing about the number of personnel and the amount that this will cost.

Mr. DOUGLAS. The act appropriates $4,000,000, to be matched by at least an equal sum, which would make $8,000,000. I doubt whether we could build up a completely effective system on $8,000,000, but it has been the custom under other Federal aid acts for the localities to appropriate more than their proportionate quota.

Mr. HICKEY. Then the $8,000,000 will be distributed all over the country?

Mr. DOUGLAS. Yes.

Mr. HICKEY. In all of the cities, I suppose?

Mr. DOUGLAS. Yes.

Mr. HICKEY. By the Department of Labor?

Mr. DOUGLAS. Yes.

Mr. MONTAGUE. How many persons do you think would be required to administer the act?

Mr. DOUGLAS. I do not know. It depends on the States. You take a State such as Oregon, for example, it might be handled out there with four or five, while a State such as Texas would need more.

Mr. MONTAGUE. I understood one of the witnesses a while ago to say that in New York there would be 2,000 personnel.

Mr. DOUGLAS. I think that must have referred to the private employment agencies.

Miss FRANCIS PERKINS. In New York we have 11 public employment bureaus.

Mr. CELLER. But you have 2,000 employees in the department?

Miss PERKINS. The total number of employees in the entire department is 2,000, and in the Employment Bureau, which is only one of our bureaus, there are about 100 people.

Mr. DOUGLAS. We have at the present time, I believe, in this country approximately 200 public employment agencies. My guess would be that to strengthen those 200 adequately staffed would require a considerable expenditure, and that if we had five or six hundred officers properly selected and properly subdivided in each office, that a respectable beginning could be made.

Mr. CELLER. Is not the answer to the question dependent on how far each State wants to go? It can have as many as it wishes; then the Federal appropriation would be matched by what the State expends.

Mr. DOUGLAS. Yes.

Mr. HAMMER. Provided it can meet the appropriation.

Miss PERKINS. It takes about five people to an office.

Mr. DOUGLAS. Now there is one feature of this bill—there are many features of this bill that I like, but there is one feature that I think is especially valuable, which gives to the Federal agency the power of checking up the State agencies. That can be a great weapon for efficiency in preventing corrupt State administrations from maladministering the funds. But now I come to what really seems to me——

Mr. MONTAGUE (interposing). What would you do with the converse statement?

Mr. DOUGLAS. Where a State is efficient?

Mr. MONTAGUE. No. You say it is designed to prevent States from maladministration and corruption.

Mr. DOUGLAS. Yes.

Mr. MONTAGUE. What are you going to do to prevent the United States bureau from maladministration and corruption?

Mr. DOUGLAS. Well, you gentlemen are here to prevent that.

Mr. MONTAGUE. No, you say if we put out this act it will prevent maladministration on the part of the State; now tell us what would prevent maladministration on the part of the United States?

Mr. DOUGLAS. In the first place I may point out that the National Government——

Mr. MONTAGUE (interposing). As a rule the state governments are more economically and more efficiently conducted than the United States Government.

Mr. DOUGLAS. I may point out that the States would be spending the money under this act; the Federal Government would be spending very little money and that there would be this stimulus to efficiency, namely, for every dollar of Federal money which the States expended, they would have to match a dollar of their own, and therefore there would be a pressure upon them to expend their money efficiently, which is not present under the reverse statement.

Mr. SUMMERS. There is one objection which occurs, I think, to a good many members with reference to this character of legislation. In the first place, from reading the bill hurriedly, it appears that this Federal agency exercises a sort of general supervision over these state agencies, and they have to come more or less as petitioners to the Federal agency for permission to participate in the scheme, and if this Federal agency does not like the way they are doing things it may cancel them out; then they may have to come, a sovereign state, and appeal to the Federal officers. That is one thing that we do not so much like about it.

Mr. DOUGLAS. Now, may I ask, would you favor as an alternative an outright Federal grant without supervision, so that the States would spend their money any way they wished, without a Federal check-up?

Mr. SUMMERS. Well, that would present a very difficult problem.

Mr. DOUGLAS. May I point out that we had this experience once in the United States when we distributed the surplus funds in the administration of President Andrew Jackson, and that the States immediately squandered their money; and may I point out also that in the case of the Morrill land grant law, where grants of land were made to the States to assist them in founding agricultural colleges, the land was sold for a song?

Mr. MONTAGUE. It would not bring more than a song when it was sold, would it?

Mr. DOUGLAS. But the question may very well come as to whether it would have been better to have held the land.

Mr. SUMNERS. The Federal Government gave a great deal of land to the railroads, did it not?

Mr. MONTAGUE. For a song, too.

Mr. DOUGLAS. But no one defends the credit mobilier, I take it.

Mr. CELLER. Is not the answer to Judge Sumners's question that the States would be placed under the general supervision of Federal authority, that the State need not come into this system if it does not wish to, as was stated in the case of Massachusetts versus Mellon, that you have cited, reported in Two hundred and sixty-second United States, page 482 of that opinion, which I quote as follows:

> Nor does the statute require the States to do or to yield anything. If Congress enacted it with the ulterior purpose of tempting them to yield, that purpose may be effectively frustrated by the simple expedient of not yielding.
>
> In the last analysis the complaint of the plaintiff States is brought to the naked contention that Congress has usurped the reserved powers of the several States by the mere enactment of the statute, though nothing has been done and nothing is to be done without their consent.

Mr. DOUGLAS. Yes.

Mr. CELLER. So if the State does not wish to yield they do not come in.

Mr. DOUGLAS. Yes. Now, there are two more final points and then I am done. Namely, no employer is compelled to cooperate with the employment service. He does not have to get his workers from the employment service; he can have nothing whatsoever to do with the employment service, and if he wishes to have an antiunion policy, maintain black lists, and so forth, he can do that in the future just as he has done in the past, or as some have done in the past. There is no obligation upon him to cooperate with the service. If he is suspicious he does not have to take any worker that is sent to him.

Mr. MONTAGUE. The bill does not touch that question.

Mr. DOUGLAS. No. I do not think this bill would foster illegitimate unionization in the slightest, and I brought this thing out in the open because I have felt that it was in the back of people's minds, and it was important to get it ventilated.

Mr. MICHENER. What do you mean by "illegitimate unionization"?

Mr. DOUGLAS. Unionization fostered by the Government, men being sent in by the employment service for the purpose of unionizing a plant. That is no function of an employment service at all. The employment service is to furnish men, union or nonunion, and no employment service can succeed, can even get to first base, unless it is founded on the principle of neutrality.

Mr. MICHENER. Then you believe that if this service was established in a State, and there is a town, for instance, where they are unionized, the employment service would bring in from some other section of the country men who were not unionized, because they happened to be out of work in that section of the country.

Mr. DOUGLAS. Now then, suppose those——

Mr. MICHENER (interposing). Wait a minute. Will you just answer that question?

Mr. DOUGLAS. But let us get it defined first.

Mr. MICHENER. Answer it first and then explain.

Mr. DOUGLAS. How can I answer a question unless we have it defined?

Mr. MICHENER. Well then, wait, I will state it again, then you can answer it and then you may explain.

Assuming, for instance, that here is a town where industry is unionized——

Mr. DOUGLAS (interposing). And with an agreement?

Mr. MICHENER. Let me finish my question. Where the town is unionized, industry is unionized, and here is another section of the country engaged in the same industry, the same line of business, where they are not unionized; now, assuming that there is a lack of employment in the unionized town and there is a surplus of employment in the section of the country which is not unionized, would this permit the taking of those nonunion men from that section of the country and setting them down in the union section and requiring the people to use them?

Mr. DOUGLAS. Not requiring to use them, but the employment service could recommend these men to the employers, then whether the employer would hire the men or not would depend upon his agreement with the union. If he had an agreement with the union providing for the union shop, he would not hire them; if he had no such agreement with the union, then he could hire them. In brief, the employment service merely effectively recruits labor and does not of itself have anything to do with the union shop or the anti-union shop. That is a matter for employers and workers to agree upon or to disagree upon.

Now, gentlemen, I am afraid I have taken up more of your time than I should, and unless you have questions I shall stop.

Senator WAGNER. Thank you very much. The last witness that I will call is Dr. John B. Andrews, who is the Director of the American Association for Labor Legislation, and who has made a particular study of this subject for some years.

STATEMENT OF JOHN B. ANDREWS, DIRECTOR OF THE AMERICAN ASSOCIATION FOR LABOR LEGISLATION

Mr. ANDREWS. Mr. Chairman and members of the committee, it has been three years since I last appeared before your committee. That was in connection with the longshoremen's compensation legislation, which is now working so smoothly that I am encouraged to come back. This afternoon in a very few minutes, because I am anxious that the opposition shall have all the time that they need to present their opposition case, I wish very briefly to recall to you what our problem is here.

We are faced with a very serious condition. I am not so much interested in theories as I am in the fact that in this country we have millions of wage earners unemployed. You do not know, I do not know, perhaps within a million how many are unemployed. That in itself is sufficient surely to suggest——

Mr. MONTAGUE (interposing). What would you give as your approximation of the number?

Mr. ANDREWS. I have refused to try to estimate, because I know that no person in this country can know probably within a million how many people are unemployed. What we need is the program of legislation for which we have been working now for 15 years in this country and which every private conference and every public commission that goes into the subject of unemployment tells the public we, of course, should adopt as the minimum legislative program. If we adopt these three bills, if we adopt the plan of getting better

employment statistics, if we adopt this proposition of more intelligent planning of public work, and then if we adopt this proposition to have a well knit together system of public employment offices throughout the country, we can commence to answer your question. No one can answer it until that time.

I have served on these committees and commissions for 15 years. I served as a member of the New York City municipal committee under Mayor Mitchel during the depression of 1914 and 1915. I served on the State committee in my State of New York. I served on the President's unemployment conference under the chairmanship of Mr. Hoover in 1921. Each time we came to the conclusion that, of course, through our legislators, we must adopt this as a minimum program. And what have we done? What progress have we really made during those 15 years? That is what faces us this afternoon. It is not a matter of economic theory; it is a matter of cold fact, very cold for a number of millions of people who are unemployed.

There seems to be some difference of opinion as to how this legislative program developed. There is no secret about it to anybody who has taken the time to go back through the official records. There is no doubt as to what has happened. As early as 1919 a former member of the House and for a time chairman of the Labor Committee our friend W. B. Wilson who became the first Secretary of Labor, called together in April of that year 60 conferees representing practically all of the states of this country. They sat down together for three days working over the program for this one bill for employment offices.

Who were some of those people? Who did they represent? Is this employment office bill an imposition upon the States of this country? No. The conferees represented Governor Coolidge of Massachusetts, Governor Allen of Kansas, Governor Smith of New York, Governor Stephens of California, Governor Lowden of Illinois, Governor Shoup of Colorado, Governor Hart of Washington, Governor Davis of Virginia, and on through a large number of the other States. Also there sat with them a representative of the American Federation of Labor and a representative of the Chamber of Commerce of the United States.

Those were the people of a representative character from all these States. The Federal-State plan they outlined in a lenghty resolution at the end of their three-day deliberations is a virtual outline, even in detail, of the bill that has recently passed the Senate. Those men decided that it was necessary to do those things, and those details are there on record for anyone who wishes to read, beginning on page 181 of the May, 1919, issue of the Monthly Labor Review published by the Department of Labor. And what did they say in recording this action at the time? They said:

> It is greatly to be hoped that at last a permanent national system of employment offices, administered under uniform rules and standards prescribed by Federal authority, will be provided for in the forthcoming extra session of Congress.

That is what they hoped. That was 11 years ago, and the United States Senate, under the leadership of Senator Wagner of New York, adopted that full program a month ago.

The Chamber of Commerce of the United States in that same year, 1919, took a referendum on the subject and they got 689½ votes in

favor and only 361½ votes opposed to "a system of national employment offices with due provision for cooperation with existing State and municipal systems." (Report of the President's Conference on Unemployment, p. 84.)

The CHAIRMAN. What was the question submitted in the referendum?

Mr. ANDREWS. I was quoting verbatim—"a system of national employment offices with due provision for cooperation with existing State and municipal systems."

Mr. SUMNERS. Right on that point, does this bill contemplate the organization indicated by that resolution, in your judgment?

Mr. ANDREWS. Yes, I think it does, so far as it is possible to tell from the language.

Mr. SUMNERS. Do you regard this bill as setting up a scheme of cooperation, as distinguished from subordinating the States to Federal control?

Mr. ANDREWS. The provisions for cooperation has always been to the forefront in all these discussions, and it has always been a Federal-State-aid proposition, if that is what you mean, and it was outlined in great detail by the 60 conferees who came from the different States in 1919.

Mr. SUMNERS. My question with reference to that point does not indicate an antagonistic attitude on my part.

Mr. ANDREWS. I understand.

Mr. SUMNERS. I want that point pretty well cleared up.

Mr. ANDREWS. Yes. The Federal-State aid plan is specifically the basis of this proposition laid down by these representatives of the governors from all over the country.

Mr. MONTAGUE. May I ask, is not this the first bill that has ever been introduced to effectuate those resolutions?

Mr. ANDREWS. It is not.

Mr. MONTAGUE. It is the first one to appear before this committee.

Mr. ANDREWS. There was a bill introduced in this House by our friend Congressman Nolan of California some years ago.

Mr. MONTAGUE. But it was not referred to the Committee on the Judiciary.

Mr. ANDREWS. I think that went to the Committee on Labor and was reported favorably. That was about 1919. It was introduced in the House by Congressman Nolan and on the Senate side at that time by Senator Kenyon, now Judge Kenyon of Iowa. There is nothing new in the whole proposition. It is a well seasoned matter and has been discussed in all of its details for 15 years.

On Monday of this week, June 9, the industrial relations committee of the Philadelphia Chamber of Commerce indorsed all three of these unemployment bills, including Senate 3060, the Federal-State aid proposal for the employment office system.

I realize that Senator Bingham in his radio talk has referred to two or three details in the bill to which he takes exception, and those details are objected to by Mr. Emery of the National Association of Manufacturers.

Particularly distressing to them is the provision for the gathering of information—and all that a public employment service can do is to collect and furnish information—in the gathering and dissemination of the information concerning opportunities for employment the

Federal Government may set up one of its information offices in a State, even where that State has not yet opened such a public employment office of its own. The reason why the emphasis was given to the recommendation along that line by the President's unemployment conference of 1921 was to point out specifically that, of course, it is expected that practically all of the work is to be done by the municipal and State employment offices. It went on in detail, after discussing the fact that some local offices exist, to say that the State should be the unit in local organization—that is, the State rather than the municipality on the one side—and then went on to say that the Federal Government should assist in making these State and local offices more efficient, and that it should not for its part do the placement work. It was for the purpose of emphasizing that the States themselves are going to spend this money, that the States themselves are directly responsible for the actual administrative work in these offices.

One additional point has been developed which we have to face. It is a new one. We did not have it 15 years ago. The United States Supreme Court in the case of Ridnik *v.* McBride (48 Sup. Ct., 545) decided in 1928 that the States can no longer regulate the fees charged by the fee-charging commercial employment agencies. That puts us in greater need than ever before of legislation which will provide an efficient, permanent system of public employment offices to which the unemployed in their weakness may go for information with reference to opportunities for work when the fee-charging agencies overreach the mark and impose upon the weakness of the unemployed. That is an added reason, a new reason why we should perfect the public employment system.

The CHAIRMAN. Let me ask, if the Supreme Court decided that the States had no power to regulate such a subject, by what authority would the United States, which exercises only delegated powers, have any power to do such a thing?

Mr. ANDREWS. It was not that the Federal Government should attempt to fix the fees charged by the agencies, but that competition may often be the greatest regulator in bringing about decent business conditions.

In conclusion, I appreciate that there is no opposition to the bill, Senate 3061, with reference to employment statistics, and that there is no opposition to the long range planning of public works bill, Senate 3059. There is a limited opposition to the one for the public employment offices, although it is significant that the State industrial commissioners meeting in annual convention at Louisville, Ky., about two weeks ago unanimously adopted a resolution in support of this bill for Federal-State aid in public employment offices. It is also, of course, apparent that there is very widespread support for this measure throughout the whole country. There is a remarkable demand on the part of the public that this legislation be passed before the end of this session of Congress. The only thing, as I see it, which is causing anyone to hesitate is the question of so-called constitutionality of Federal-aid. On that point Prof. Joseph P. Chamberlain, of the Columbia University Law School, has prepared a short but very good legal brief which I am simply going to file with your committee for the record. I think it covers with complete satisfaction every point that has been raised with reference to the constitutionality of the legislation, and covers it conclusively.

I should also like to file after that just a brief chronology of the growth of the legislation on this subject.

The CHAIRMAN. It may be received.

(The document referred to follows:)

FEDERAL AID BILL—THE CONSTITUTIONALITY OF THE EMPLOYMENT OFFICE BILL, S. 3060

By Joseph P. Chamberlain, of Columbia University

There are several Federal statutes which make or authorize appropriations offering Federal aid to the States in conducting certain charitable, social, and educational enterprises. The acts referred to are the Smith-Lever act (38 Stat. 372), agricultural extension work in State colleges; the Smith-Hughes act (3, Stat. 929), for training teachers of vocational and agricultural subjects and paying teachers' salaries; the Smith-Sears act (41 Stat. 735), industrial vocational rehabilitation; the Federal highway act (42 Stat. 212), and the Sheppard-Towner act (42 Stat. 324), maternity and infancy welfare.

Doubt of the constitutionality of the Sheppard-Towner act was expressed in an opinion by the attorney general of Massachusetts, 1922. (7 Mass. Law Quarterly, May, 1922, 67.) As a result, two cases were brought to the supreme court to enjoin its enforcement. (Mass. *v.* Mellon; Frothingham *v.* Mellon, 262 U. S. 467, 67 L. ed. 1078 (1922).) The first was brought by the State, claiming the act invaded the right of the State to local self-govenment and was a usurpation of power by Congress and that it imposed on the State an unconstitutional option either to yield its reserved rights or to lose its share of the appropriation. Considering the suit as being brought by the State in its own behalf, the court said, "We are called upon to adjudicate, not rights of person or property, not rights of dominion over physical domain, nor quasi-sovereign rights actually invaded or threatened, but abstract questions of political power, of sovereignty of government. No rights of the State falling within the scope of judicial power have been brought within the actual or threatened operation of the statute. If an alleged attempt by congressional action to annul and abolish an existing State government 'with all its constitutional powers and privileges' presents no justiciable issue, as was ruled in Georgia *v.* Stanton (6 Wall. 50, 75, 18 L. ed. 721, 724), no reason can be suggested why it should be otherwise where the attempt goes no farther, as it is here alleged, than to propose to share with the State the field of State power." The court pointed out that no State rights were invaded merely by extending the option, and held that the question of usurpation of power, when nothing had been done and nothing was to be done without the State's consent, was not a judicial question, of which the court would take cognizance, but a political question over which the court had no jurisdiction. In short, the court decided that the act involved no State rights protected by the Constitution and that there was nothing contained in it to lead the court to find it unconstitutional as a usurpation of power.

It also held that a State can not as parens patriae institute judicial proceedings to protect its citizens who are also citizens of the United States from the operation of a statute of the United States, since, with respect to their relation to the Federal Government, it and not the State represents them as parens patriae.

The other case decided at the same time, Frothingham *v.* Mellon, was brought by a taxpayer of the United States to enjoin enforcement of the act on the ground that the appropriation from the general funds increased the burden of future taxation and thereby took the plaintiff's property without due process of law. But the court decided that though a taxpayer might sue to enjoin the illegal use of the money of a municipal corporation, his interest in the money in the National Treasury is so minute, and the effect of payment of the funds on future taxation is so remote and uncertain, that no action can be maintained to prevent enforcement of the appropriation.

These statutes and the bill, drawn on their pattern, seem therefore to be free from possibility of attack in an action by a State or by an individual taxpayer. As to the objection made to the Federal aid acts that they are infringements by Congress on the State rights of local self-government through the conditions imposed precedent to enjoying the benefits of the acts and that acceptances by the State would be void as an abdication of the State's sovereignty, Burdick (8

Cl. L. Q., 324), argues that even if the conditions did involve the ceding of reserved State rights, still the mere legislation alone would be no unconstitutional act because it is ineffective until acceptance by the State, and further than, even after acceptance by the State actually involving delegation to the United States of some reserved governmental power, there would be no violation of the Federal Constitution. The tenth amendment, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people," is inapplicable as a test of the scope of the delegated powers of the National Government, and can not be taken to limit the exercise of the delegated powers; in particular, the powers of taxation and appropriation under Article I, Section VIII. As Corwin quotes Madison: "Interference with the powers of the States is no constitutional criterion of the power of Congress. If the power is not given Congress may not exercise it. If given, they may exercise it even though it shall interfere with the laws or even the constitutions of the State." The State's acceptance, then, would at most violate the State constitution and would raise no question within the jurisdiction of the Federal courts.

But Burdick asserts that Federal-aid legislation has so far not involved delegation of legislative powers precedent to securing the benefits, and the same would be true of the bill, as it is drawn in the same form and plan as the others. The conditions are of three classes: Mandatory and directory provisions regarding the use which the States are to make of the funds, which involve no surrender of governmental rights; requirements for reports and estimates from the States for the purpose of controlling the administration of the acts, but only to insure their fulfillment as accepted by the States. In these there is no limitation on the State legislature or general administrative powers.

Federal-aid legislation has been attacked as an illegal exercise of the power of Congress to tax and to spend money as granted in Article I, Section VIII, of the Constitution: "Congress shall have power to lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excise shall be uniform throughout the United States." Corwin (36 H. L. R. 548), and Burdick, in the article cited above, show that the power to provide for the general welfare contained therein is not an unlimited one to legislate for the general welfare irrespective of other constitutional limitations but only a qualification of the taxing power. But it is pointed out also that the prevailing construction given to the phrase does not limit the scope of taxation and expenditure for the purposes of general welfare to the other specially delegated powers of Congress as Madison interpreted the words; but rather that the phrase has been given its literal and comprehensive meaning, limited only by the qualification that the expenditures be general and not local, Hamilton's interpretation. Madison's opinion appears in the Federalist, No. 41 (40). He holds that the words are limited not only by appearing in the clause relating to taxation but, also, by being in the same section with the enumerated powers, and he construes them as a mere general phrase explained and qualified by the recitation of particulars which follow it.

This interpretation was first offered by Jefferson in his opinion on the constitutionality of the national bank (Federalist 1898, appendix, p. 651) and was answered by Hamilton in his counter argument (Federalist 1898, Appendix, p. 655–764) where Hamilton understands the phrase as allowing Congress to raise money for the purpose of general welfare, the only constitutional test being that it must be for a general and not local purpose; but "the quality of the object as how far it will really promote, or not, welfare of the Union, must be a matter of conscientious discretion; and the arguments for or against a measure in this light must be arguments concerning expediency or inexpediency, not constitutional right."

Story also contends against Madison's limited interpretation (Story on the Constitution, secs. 922 to 930 in.) and the broader interpretation has been accepted almost uninterruptedly throughout the history of the Nation, as Corwin shows at length in his Harvard Law Review article. Story also claims that in that clause of Article I, Section VIII, is found the power to appropriate (Story on the Constitution, secs. 975–991 incl.)

No comprehensive judicial determination of the scope of the taxing power under the welfare clause has been made. Examples of earlier laws passed under the general-welfare clause are those making appropriations for agricultural researches, the formation of the Department of Labor, the Fisheries Bureau, and the Bureau of Mines. The Morrill Act of 1862 (ch. 130, 12 Stat. 503) granted public lands to the States on condition that they establish a college, and later donations of money from the sale of public lands were made to each State for the benefit of the colleges established under the Morrill Act (1890, 20 Stat. 417). It is probable that the court would not undertake to question the constitutionality of an appropriation for general welfare, and that general welfare is what Congress takes it to be unless clearly in violation of the constitutional limitation. In United States *v.* Realty Co. (163 U. S. 427, 1866) the court held that "debts" in Article I, Section VIII, included a claim not legal in character but based on moral and honorary consideration and under that interpretation sustained an appropriation for a bonus to sugar companies to replace a protective tariff removed at that time and did not question its constitutionality otherwise. The court refused to say there that Congress had the power to appropriate for any purpose it might choose to say was in payment of a debt or for general welfare, but declared that its decision recognizing a claim and appropriation can rarely, if ever, be subject to judicial review. A moral obligation was recognized as a debt in United States Sugar Equilization Board *v.* De Ronde Co. (77 Fed. (2d) 981, citing U. S. *v.* Realty Co).

The power of the States to curtail their general powers to the extent of entering into temporary contracts is well settled (McGee *v.* Mather (4 Wall. (U. S.) 143, 18 L. Ed. 314 (1896)); Stearns *v.* Minnesota (179 U. S. 223, 45 L. Ed. 162 (1900)).

In summary, the constitutionality of the bill would be free from possibility of attack by any State or by an individual taxpayer and would be no invasion of the State rights to local self-government. The appropriation, under the general-welfare clause, would probably not be reviewed by the courts, and acceptance of the provisions by the States would be no unconstitutional surrender of their reserved rights and is within their power of making temporary contracts.

I. FEDERAL AID TO PUBLIC EMPLOYMENT BUREAUS

During the industrial depression of 1914 no fewer than six bills were introduced in Congress to establish a Federal system of employment bureaus. Several well attended committee hearings were held; but action was deferred as the result of an announcement by the United States Commission on Industrial Relations that it was proposing a measure. The commission, however, after long delay failed to come forward with a bill. Instead one of the six bills earlier introduced was finally reported by the House Labor Committee—too late for action at that session.

Subsequently the Industrial Relations Commission issued a tentative plan for a Federal system. It urged the need of a bureau of employment within the Department of Labor which would cooperate with State employment bureaus. There was widespread discussion of this proposal.

Meanwhile, many States and cities established public employment bureaus of their own. And although Congress failed to provide the central clearing house that was needed, the Department of Labor, on its own initiative secured the cooperation of the Post Office Department and the Department of Agriculture in setting up a makeshift system for job finding on a national scale. It was handicapped by inadequate funds and by an untrained personnel, but it was able to give some assistance to the unemployed.

In 1917 the attention of Congress was again called forcibly to the need of an adequate Federal employment system by the emergency of the World War. The Robinson-Keating bill was introduced in Congress in December, 1917 with strong support, but it was not acted upon. Instead Congress merely appropriated $250,000 to the Department of Labor for the purpose of improving the Federal service; and the President supplemented this appropriation by a grant of $2,000,000 from the President's emergency fund. The result was the creation of emergency employment offices under Federal direction in all parts of the country. During this emergency period, the Secretary of Labor separated the employment service from the Bureau of Immigration. At one time there were between 800 and 900 offices in this Federal system, which proved itself to be invaluable to the country during the war and the subsequent demobilization.

Even while this Federal activity in employment work was at its peak, there was general recognition that the employment service as then in operation was organized only as an emergency device, and that unless Congress took action to put it upon a permanent footing, the end of the war would find the United States in the same position as did the beginning, lacking that proven essential to industrial efficiency, an adequate, permanent, national system of public employment bureaus.

As a result, the Department of Labor in April, 1919, called a conference at which there were delegates representing the governors of various states and the Federal employment service. This conference urged the continuation of the United States Employment Service as a permanent bureau in the Department of Labor and made detailed recommendations for the establishment of such a bureau. The Kenyon-Nolan bills, introduced in Congress in 1919, embodied these recommendations. They were supported by a message to Congress by the President who urged the necessity of legislation to meet the unemployment problem by developing and maintaining the Federal employment service. These bills were indorsed by the American Federation of Labor and numerous social welfare and civic organizations throughout the country.

But Congress did not act. On the contrary, it cut the appropriations of the employment service. Although the Nolan bill was favorably reported from committee in the House, this country had to face the unemployment crisis of 1921 without an adequate Federal-State system of employment bureaus. The emergency service set up during the war was reduced to skeleton proportions by the refusal of Congress to give it the needed financial support, a condition which has continued to the present moment. (The increased appropriation recommended by President Hoover in December may mislead, in that $100,000 of the $168,000 increase is exclusively for service to veterans, and $55,000 is for farmers. This leaves a mere $13,000 increase for the nation-wide general cooperative work.)

Surely, after all these years of delay, a really adequate, permanent public employment service should be established.

II. LONG-RANGE PLANNING OF PUBLIC WORKS

Public works projects were used to relieve unemployment in most of the large cities of the United States during the 1914 depression. Although much good was accomplished, it was then generally recognized by competent observers that such a program had been seriously hampered by failure to act in advance of the emergency.

In 1914, the California Commission of Immigration and Housing declared in this connection: "In fact the general failure to plan ahead and the refusal to face the problem until the need is pressing, is the most pertinent criticism. * * * Instead of delaying until another crisis comes, immediate steps should be taken to formulate a program for permanent State action. Suitable work should be outlined, funds provided and definite plans formulated."

This criticism for the National Government is just as valid in the present crisis as it was (for California) in 1914. So far as the Federal Government is concerned, the need of long-range planning still awaits recognition by Congress. The States, on the other hand, have made a little progress.

The first State to make a gesture toward setting up a plan for a prosperity reserve of public works was Pennsylvania. In 1917 that State created an emergency public works commission to arrange the extension of public works during periods of industrial depression and to receive tentative plans of projects from the various departments of the State. It was provided with the nucleus of a fund to be divided among the various departments having work available. Unfortunately, this pioneer act was abolished soon after during a recodification.

The 1921 depression caused California to adopt similar legislation. In 1923 Wisconsin and in 1929 Utah also provided the beginning of long-range planning of public works.

Meanwhile the Federal Government failed to adopt a permanent policy. In December, 1917, President Wilson urged the use of public works on a national scale to prevent widespread unemployment during demobilization. And although Congress failed to provide a systematic plan for such a program, the War Department utilized the possibilities of stimulated public work in finding employment for its demobilized military forces.

The crisis of 1921 again attracted attention to the need of a public-works program. Cities and States adopted emergency measures, and similar action was urged upon the Federal Government. It became evident that the leadership of the National Government in setting up a permanent program would have a most desirable effect upon the States and municipalities. As a result, the Kenyon bill to prepare for future cyclical periods of depression and unemployment by systems of public works was introduced in Congress. The President's conference on unemployment, moreover, strongly recommended this type of farsighted preparation. But Congress refused to enact the Kenyon bill, although it was favorably reported by the Senate committee.

With the revival of business, the memory of the 1921 depression, together with the recommendations of several committees which had studied the question, led Secretary of Commerce Herbert Hoover to recommend to President Harding that an Executive order be sent to all divisions of the Government to have public works slowed down during the period of prosperity so as to contribute something to the overflow of employment. But no definite plan was adopted, despite the ever-growing recognition of the soundness and desirability of such a measure. Public opinion was further directed to the subject by the report of Herbert Hoover's committee on business cycles and unemployment (1923), and of his committee on seasonal operation in the construction industry (1924).

Early in 1927 Senator Pepper introduced a resolution to appoint a Senate committee to study the stabilization of employment and industry through advance planning of public works, with a view to legislation. The resolution was reported favorably after a hearing, but the Senate failed to act upon it.

Finally in 1928, Senator Jones introduced a bill to create a prosperity reserve. The bill was approved by Herbert Hoover's Department of Commerce and was reported favorably with only one amendment by the Senate Committee on Commerce after a public hearing. Unfortunately this was shortly before the national political campaign of 1928, and the Federal Administration apparently came to believe it would in some way be unfortunate even to admit the possibility of a future business recession if the party in power were successful in the election that year. The bill was therefore killed.

Soon after the election, at the conference of governors, Governor Brewster, of Maine and William T. Foster, speaking for the President-elect, raised high hopes of early adoption of a national permanent program for the prevention of unemployment by the Hoover administration. A year and a half have gone by without legislative action for this purpose. Again and again, it has been pointed out by responsible public officials that it is practically impossible suddenly to launch any effective program of public construction which presupposes available funds, carefully drawn plans, and contracts let, before actual work begins. There must be advance planning if the public works program is to be really effective in meeting emergency condition of unemployment.

Surely we have waited long enough for the adoption of the principle of long-range planning of public works as a definite policy of the Government.

III. CHRONOLOGY OF HOOVER AND UNEMPLOYMENT

1920.—Report of second industrial conference called by President Wilson; Herbert Hoover, vice chairman. Recommended: 1. Planning of public works as "one of the most useful approaches to the general problem of unemployment." 2. "Enactment of appropriate legislation by Congress making provision for an employment clearing house under Federal control," cooperating with State bureaus.

1921.—The President's conference on unemployment; Herbert Hoover, chairman. Recommended: 1. "An adequate permanent system of employment offices." Existing Federal provision declared inadequate. 2. Leadership by the Federal Government "in expanding its public works during periods of depression and contracting execution in periods of active industry."

1923.—Report of committee on business cycles and unemployment, appointed by Herbert Hoover: 1. "The committee call attention to the need for careful drafting of laws to insure a policy of reserving public works projects, if it is to be done effectively." 2. "A national system of employment bureaus was recommended by the President's conference on unemployment, and the committee gives hearty approval to that recommendation."

1924.—Report of committee on seasonal operation in the construction industries appointed by Herbert Hoover: 1. "The efforts to encourage long range planning of public works deserve the support of the public, legislators, and administrative officials."—Foreword by Herbert Hoover. 2. "The committee calls special attention to the report of the President's Conference on Unemployment relative to a permanent system of employment exchanges."

1928.—Herbert Hoover's Department of Commerce indorses the Jones prosperity reserve bill: "Enactment of the bill by the Congress would, in my opinion, encourage measures looking toward the same end on the part of the State and local governments, which would also be in accord with the unanimous recommendations of the President's conference on unemployment and its committee on business cycles and unemployment."—Memorandum by chief of the division of building and housing, Department of Commerce, submitted to the Senate committee by Herbert Hoover.

1928.—Herbert Hoover in presidential campaign speeches recommends the planning of public works with a view to eliminating unemployment.

1928.—Governor Brewster announces Hoover's "three billion dollar reserve fund" program to the conference of governors "at the request of Herbert Hoover as an authorized exposition of a portion of his program for stabilizing prosperity."

1929.—Senate committee's report upon unemployment: 1. "The Government should adopt legislation without delay which would provide a system of planning public works so that they would form a reserve against unemployment in times of depression." 2. "The Federal Government should provide the agency to coordinate State public employment bureaus and to assist in any national functioning of the unemployment exchanges."

Mr. McKEOWN. Is this the same Judge Chamberlain that wrote the great work on evidence, Chamberlain on Evidence?

Mr. ANDREWS. No; this is Professor Chamberlain, of the Columbia University Law School.

Senator WAGNER. Professor Chamberlain is very well known in the State of New York.

Mr. McKEOWN. Judge Chamberlain, of New York, wrote a great work on evidence.

Senator WAGNER. Miss Hall is here, but because of the lateness of the hour she does not ask to be heard but asks to file with the committee a petition which was signed by those who attended the National Conference of Social Workers, which is a very large organization, national in scope and activities, which had a conference at the city of Boston last week, and this petition was formulated there approving all three bills, two being before this committee.

Mr. MONTAGUE. Are there many names there?

Senator WAGNER. All were present at the conference.

Mr. MONTAGUE. How many would you say?

Miss HALL. There were over 400 there, and that was just started yesterday afternoon. There were over 400 signers and nearly 100 cities represented.

Senator WAGNER. Nearly 100 cities represented. And was there any dissent at all?

Miss HALL. No.

Senator WAGNER. It was unanimously approved.

The CHAIRMAN. We will receive this petition. The opinion of Professor Chamberlain will be put into the minutes of our hearing; the other communication will be noted and filed for reference.

(The petition referred to follows:)

PETITION TO PRESIDENT OF UNITED STATES, CHAIRMAN OF THE JUDICIARY COMMITTEE AND OTHER MEMBERS OF THE HOUSE OF REPRESENTATIVES, WASHINGTON, D. C.

We, the undersigned, respectfully urge the passage by the House of Representatives of the three bills relating to unemployment introduced by Senator Wagner and already passed by the Senate, namely:

Senate bill 3059, advance planning of public works: To provide the systematic planning of public works by Federal Government, and the means by which new construction may promptly be undertaken in periods of increasing unemployment.

Senate bill 3060, Federal-State employment bureau: To establish an efficient public employment service through Federal-State cooperation, with competent management and adequate support. Prevention and relief of unemployment demands the shortening of the period between jobs.

Senate bill 3061, better employment statistics: To authorize the collection of more adequate information by the Federal Bureau of Labor Statistics. Accurate and timely statistics of unemployment trends are essential to plans for stabilization, both public and private.

In 1921 Mr. Hoover, as chairman of the President's Conference on Unemployment, made this statement:

"There is no economic failure so terrible in its import as that of a country possessing a surplus of every necessity of life in which numbers, willing and anxious to work, are deprived of these necessities. It simply can not be if our moral and economic system is to survive. * * *

What our people wish is the opportunity to earn their daily bread, and surely in a country with its warehouses bursting with surpluses of food, of clothing, with its mines capable of indefinite production of fuel, with sufficient housing for comfort and health, we possess the intelligence to find a solution. Without it our whole system is open to serious charges of failure."

We fully agree with this statement. We are convinced, moreover, that a partial solution of the problem of unemployment has already been found in the three bills which have been passed by the Senate. They are essential parts of a sound, unified program of action. The principles involved in these bills have been subjected to rigid criticism for many years and have been very widely endorsed by economists, business men, bankers, and social workers in all parts of the country. It would be inexcusable for this country to go through another winter—possibly another winter rife with all the misery, unrest, and crime that go with involuntary unemployment—without taking the moderate and soundly conceived measures of prevention for which provision is made in the three Wagner bills.

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George B. Sherman, Brimfield, Mass.
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Myra L. Spooner, Brimfield, Mass.
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Mrs. S. O. Russell, Brimfield, Mass.
Mrs. G. M. Mercer, Brimfield, Mass.
Anna Tabell, Brimfield, Mass.
William E. DeForest, Brimfield, Mass.
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Frederick Bissell, Brimfield, Mass.
Ruth W. Bissell, Brimfield, Mass.
Alma W. Bissell, Brimfield, Mass.
Ruth H. Phillips, Brimfield, Mass.
Mrs. W. H. Campbell, Brimfield, Mass.
Mrs. H. C. Clarke, Brimfield, Mass.

Mr. HAMMER. Will we have the citation of the opinion of Judge Chamberlain where it can be found?

The CHAIRMAN. I ruled that that would be placed in the record.

Mr. CELLAR. May I ask the Senator a question, Mr. Chairman? For the purpose of the record, it might be well to state that the petition of that National Conference of Social Workers takes in social workers of all creeds throughout the length and breadth of this country.

Senator WAGNER. Yes. I understand that at this particular conference there were over 100 cities of the United States represented.

As I told you earlier, I am not going to impose myself upon the committee, except that at the conclusion of the opposition I may feel called upon to say something. I think the witnesses have very fully and very comprehensively, and I think very ably, presented their side of the case. I would like to say, however, that I have found no constitutional difficulty about this legislation, and if that question is troublesome at all, I was wondering if it would be proper, when the committee has the bill under consideration for vote upon it, for a Senator, if it is not executive session, to be present and discuss perhaps the legal phases of the legislation with the committee.

The CHAIRMAN. I think we can settle that later.

Now, I understand you want to be heard on the legal points, Mr. Emery?

Mr. JAMES A. EMERY. On questions of both law and policy, Mr. Chairman.

The CHAIRMAN. How many are here in support of this measure?

Senator WAGNER. Mr. Chairman, I almost overlooked the fact that the Assistant Secretary of Labor is present. A communication

from the chairman of this committee has been transmitted to the department asking its attitude upon this legislation. I have not seen the response, but I understand the Assistant Secretary of Labor is here ready to present the views of the department to you.

The CHAIRMAN. His answers to our inquiries have been sent to the committee, so we will have that on file. But it is not to be introduced in the public hearings.

Are you in charge of the others who are here, those who wish to be heard in opposition, Mr. Emery?

Mr. EMERY. With their consent.

The CHAIRMAN. As a matter of convenience for the committee, we have no way of knowing who they are; will those in opposition stand up?

Mr. EMERY. I do not know who else is here, Mr. Chairman.

Mr. LAGUARDIA. Will you get their names and whom they represent, Mr. Chairman?

The CHAIRMAN. I will ask those who stood up to give their names.

Miss GRACE E. COOK. My name is Grace E. Cook, Boston, Mass.

Mr. MONTAGUE. Whom do you represent?

Miss COOK. I hold several positions, but I am here to represent the National Employment Board.

Mr. LAGUARDIA. Is that a State board?

Miss COOK. No, sir.

Mr. FRED H. WINSLOW. My name is Fred J. Winslow, Chicago, Ill. I represent the Illinois Employment Board.

Mr. LAGUARDIA. Of employment associations?

Mr. WINSLOW. Yes, sir.

Mr. FRANK L. PECKHAM. My name is Frank L. Peckham, Washington, D. C., vice president of the Sentinels of the Republic.

Mr. THOAMS F. CADWALLADER. My name is Thomas F. Cadwallader, chairman of the executive committee of the same organization, Baltimore, Md.

Mr. ROY RAWLINGS. Mr. Chairmain, I am the Speaker of the House of the State of Rhode Island. I am not here to speak for nor against the bill, but I have been sent by the committee on joint appropriations of the State of Rhode Island to be an observer and to meet you.

The CHAIRMAN. Very well, we will be very glad to have you remain as an observer.

Are there any others? If not, we will make a list of them and the committee will hear these persons. You may proceed, Mr. Emery.

STATEMENT OF JAMES A. EMERY, WASHINGTON, D. C., REPRESENTING THE NATIONAL ASSOCIATION OF MANUFACTURERS, AND OTHERS

Mr. EMERY. Mr. Chairman and gentlemen, I represent the National Association of Manufacturers of the United States, the National Founders Association, the National Association of Builders Exchanges, the Associated Industries of Alabama, the Associated Industries of Arkansas, the California Manufacturers Association, the Colorado Manufacturers and Merchants Association, the Manufacturers Association of Connecticut, the Manufacturers Association of Wilmington, Del., the Associated Industries of Florida, the Georgia Manufacturers Association, the Illinois Manufacturers Association,

the Indiana Manufacturers Association, the Iowa Manufacturers Association, the Associated Industries of Kansas, the Associated Industries of Kentucky, the Louisiana Manufacturers Association, the Associated Industries of Maine, the Associated Industries of Massachusetts, the Michigan Manufacturers Association, Minnesota Employers Association, Associated Industries of Missouri, Associated Industries of Montana, Nebraska Manufacturers Association, New Hampshire Manufacturers Association, Ohio Manufacturers Association, Associated Industries of Oklahoma, Manufacturers and Merchants Association of Portland, Oreg., Pennsylvania Manufacturers Association, Associated Industries of Rhode Island; Merchants, Manufacturers and Employers Association of South Dakota; Tennessee Manufacturers Association, the Utah Associated Industries, Associated Industries of Vermont, Virginia Manufacturers Association; the Federal Industries of Washington, State of Washington; West Virginia Manufacturers Association, Wisconsin Manufacturers Association, Wyoming Manufacturers Association.

Mr. CELLER. Are those organizations members of the National Manufacturers Association?

Mr. EMERY. They are not members; they are in cooperation with the National Association of Manufacturers.

Mr. CELLER. Did they adopt each specific resolution in favor of these Senate bills or against these Senate bills?

Mr. EMERY. They adopted at a conference held in New York in May an expression of their opposition to S. 3060 and their general approval of S. 3059 and 3061.

Mr. CELLER. At this conference was a representative of each and every one of those organizations present?

Mr. EMERY. No, sir; not all of them; about 95 per cent. The remainder represented associations that have since expressed their views on this subject and requested to join in cooperation in opposition to this bill.

Mr. CELLER. How many representatives of each of those organizations represented at that conference were actually present?

Mr. EMERY. The president or the secretary of each organization, but in each case the expression I have here represents the action of the association or its board of directors before or since that time.

Mr. CELLER. Have you a blanket power of attorney from those various organizations?

Mr. EMERY. I have not. I have no power to represent them in reference to any matter upon which they have not expressed their own position through their own organization.

Mr. Chairman and gentlemen of the committee, none of those whom I have the honor to represent, nor myself, can be less concerned with the social consequences of employment, nor more desirous of making every contribution that organized industry can to remedy the existing conditions than the gentlemen who addressed you this morning. If I were to consider the proposal merely from a selfish standpoint, the producers of American manufactures would have the keenest interest in the preservation of the consuming power of the employees in the manufacturing industries, and that extends to all of the forms of employment. They have the profundest sympathy with this situation, and I would be unjust to them, and I would not fully represent their sentiments if I were not authorized

to say that both the National Association of Manufacturers and all State associations that are here represented, at the present cooperating with every local force and organization to remedy the condition which confronts us, and I appeal very confidently to either Miss Perkins or to others who here represent their own States as public officials for confirmation of the statement that I make to you, and I shall later call your specific attention to evidences of this.

I am very much tempted, Mr. Chairman, merely as a background for the discussion I desire to present, to refer, if I may, for a moment to some of the matters that have been brought to the attention of your committee, only in so far as they are pertinent to the fundamental inquiry that I wish to address to you, and that is that this bill is invalid and unconstitutional, and that it represents an unsound policy which will not produce the effect which has been here suggested, and that in fact, as I shall show you as a matter of record, it is not in consonance with the recommendations of the public bodies that have been chiefly referred to here, but is in contradiction to them, as I shall endeavor to show you from the official records.

Let me say first of all, if I may, Mr. Chairman, without drifting too far from the immediate subject of inquiry before this committee, that the great problem of regularizing employment in the United States is receiving not merely the sporadic or temporary, but the continuous attention of the executives of manufacturing operations throughout the United States. All the gentlemen whose names were presented to you by Miss Perkins this morning are members of the National Association of Manufacturers, and our committees are continually engaged in the study of these great problems, in the accumulation and exchange of information between their members, and our committees in active operation as well as in their annual gatherings or quarterly gatherings and conventions, are exchanging information and undertaking to do everything within their power to regularize the conditions of employment, and in doing so to profit so far as they can by the experience of fellow manufacturers individually or collectively.

And inasmuch as there has been the general suggestion here this morning that our economic machinery appears to be failing in the performance of its functions, since it has not met and satisfactorily solved a problem so serious as that of continuous employment, I want to call your attention just for a moment to one or two of the things that it has done, which are an enormous contribution to this situation, realizing, as I am sure all of you gentlemen do, that the penalty of our progress is continuous difficulties in adjusting ourselves to a rapidly changing economic environment—and that is not peculiar to the situation of the wage earner, in whom we have the profoundest interest; it is the position of the manufacturer himself.

As a preliminary consideration let me beg to call your attention to the results of the remarkable inquiries that have just been published an inquiry on the National Income and Its Purchasing Power, by Doctor Willford King, issued under the authority and by the direction of the National Bureau of Economic Research. On the board of that body is a most representative group of economists, of business men, of executives of labor organizations, representing every shade and phase of public thought, and through that is strained all the results

of inquiries made by that body on whatever subject it addresses itself to, since its function is merely to endeavor to make studies of economic matters, particularly of pressing questions of public interest, and to make available the results of its conclusions and the facts which it assembles. I note here that among the directors at large of this board are such extremes of thought, if you please, as H. W. Laidler, executive director of the League for Industrial Democracy; T. W. Lamont, member of the firm of J. P. Morgan & Co. I see here Matthew Woll, vice president of the American Federation of Labor. I see among the professors representing universities, Thomas S. Adams, professor of political economy at Yale University, and well known to this committee as an advisor in financial and taxation matters; John R. Commons, professor of economics of the University of Wisconsin; Edwin F. Gay, professor of economic history, Harvard University; David Friday of the American Economic Association; M. C. Rorty, American Statistical Association; George E. Roberts, American Bankers Association; Hugh Frayne, American Federation of Labor, and so on. I merely mention these names as indicating the character of men who are interested in the National Bureau of Economic Research.

This study of income and purchasing power reaches a very interesting conclusion pertinent to the situation which we confront to-day, so far as we may expect the answer in whole or in part from private acts and private sources, that the income of the people of the United States has increased in the past six years substantially 60 per cent, in terms not of the present day dollar but of the 1913 dollar, and that means that it has increased so that there is an actual gain represented for each individual inhabitant of the United States in purchasing power during that period of $235 per person, or roughly speaking, $1,450 per family of five, the usual unit of economic inquiry, and that, moreover, seven-eighths of all that new income has gone to those whose income is less than $5,000 per year. In other words, that the proportion of the new income which has arisen out of our multiplied capacity for the production of wealth has gone in ever-increasing degree from the upper to the lower brackets of income.

In connection with the question that was raised this morning as to the influence of technological employment upon the present situation, I want to call your attention to Doctor King's analysis of this situation just presented in May, 1930, to the American Academy of Political and Social Science in Philadelphia, on the occasion of its annual meeting, under the title of "The Effect of the New Industrial Revolution upon Economic Welfare." Referring to the anixety as to the effects of technological improvement upon employment, he makes the following striking explanatory statement:

> When the census of manufacturers for 1923 appeared, it was discovered that the number of wage workers was lower than in 1919. The 1925 census of manufacturers showed another decline.

Those figures were presented to you this morning.

> These shrinkages in factory employment conjured up a new spectre, technological unemployment. The reality of its existence has been vouched for by labor leaders, magazine writers, newspaper editors, several economists, and at least one cabinet official. Those believing in this manifestation describe its origin as follows: Production has expanded at such a rapid rate that consumers' demand has been unable to overtake it. One very well known writer on economics tells us that all would be well if it were not for the fact that individuals and corporations save parts of their respective incomes. The weakness of his hypothesis lies primarily in his failure to recognize the fact that income saved is actually promptly spent—its chief peculiarity being that it is spent for producers' rather than for consumers' goods. Thus, the corporation's savings are largely used to construct new plants, install new machinery, and so forth. Savings not so spent are deposited in banks which loan the money to others who spend it.
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> As a matter of fact, economists long ago made the fact clear that there is never any danger of production outrunning consumption. Human wants so far exceed the total of goods available that for practical purposes they must be regarded as insatiable. The larger the product of a business enterprise, the greater its sales tend to be. The greater its sales, the more revenue it has available to buy materials and hire laborers. The money paid out for materials or wages is used by the recipients to buy other goods or services. And so supply and demand, production and consumption interact in endless spirals.
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> From time to time the even flow is interrupted and depression results. Just what the forces are which break the circuit, economists are not yet able to state with any degree of certainty. Experience shows that, fortunately, the more serious breaks in the continuity of industry are usually short-lived. During these periods of maladjustment many commodities have to be lowered in price in order that the total supply produced may be sold. Occasionally there is some commodity which it is practically impossible to market at any price. These transitory conditions, however, do not in the least prove that either general overproduction or general underconsumption ever has prevailed for any considerable length of time in any country.
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> SHIFT OF LABOR
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> There is no evidence whatever to indicate that the trend of unemployment in the United States has been upward during the period of the new industrial revolution. What has actually been happening is this. Increased per capita income has enabled most families to spend larger proportions of their respective incomes for luxuries. Wants long unsatisfied were the desires for better homes, more travel, and more amusement. The period since 1922 has, therefore, been characterized by a great volume of residential building, by the construction of a lengthy system of automobile roads lined with huckster stands, restaurants, gasoline stations, and lodging houses. Hotels, restaurants, and theaters have expanded rapidly in the cities. To build and maintain these houses, roads, and service-rendering establishments has required an army of workers. As those desiring to work were, for the most part, already attached to other industries, it was necessary to outbid these industries for their services. This was done, with the result that the numbers employed have been diminishing in manufacturing, agriculture, and railroading.
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> The loss of workers in these industries has caused little inconvenience to any one, because of the fact that improvements in technique have enabled the average employee to produce far more goods or services than formerly. As a result, the volumes of both manufactures and agricultural produce and the ton mileage of freight have been growing more rapidly than population, despite the diminution in the number of workers in each of these three fields. As Dr. William T. Foster puts it, each consumer's dollar constitutes a vote, and these votes determine the course of industry. Consumers recently have voted out railways, factories, and farms in favor of new homes, automobile highways, hotels, and theaters.

I call your attention to that, gentlemen, as a prelude to the economic shadows that fall upon the course of this discussion, and because I may possibly anticipate the inquiries that might otherwise come from the committee with respect to some of these questions which have been addressed to others.

Now, Mr. Chairman, I want to discuss this bill, if I may, not in its parts but as a whole, because it presents a complete plan and the legislation is to be judged, it seems to me, in both its validity and its quality by its plan as a whole and not by any mere reference to the parts. Much of the discussion that has gone on here this morning has been addressed to something in which we all agree, and that is the incidence of a depression upon our social life and the necessity for intelligent consideration of the remedies that will remove that

condition. That is our common anxiety. It is our common obligation. It is our common necessity. And now, gentlemen, who has presented to you yet how this bill undertakes to remedy that condition by its terms? What is this bill? What does it propose to do? What machinery does it set up? Upon what theory does it proceed to operate?

I want to lay down, if I may, four propositions with regard to it. First, that it is unauthorized use of the power of appropriation to control and regulate the internal police policy of the individual States with respect to the establishment and operation of public and indirectly of private employment agencies.

The CHAIRMAN. You are now discussing 3060?

Mr. EMERY. 3060 only, sir. To that alone shall I address myself. The bill confers upon the Federal bureau and an executive officer unprecedented authority to control the use of appropriation in order to substantially establish and determine the policy of the States with respect to the operation of their employment agencies and the placement and movement of labor through standards and regulations exclusively prescribed by such Federal official and bureau.

And third, the policy proposed under the guise of cooperation asserts the right and intention to coerce the individual States into the acceptance of Federal policies as to the operation of their employment agencies by establishing such agencies within the States, whether or not they are desired. Furthermore, such agencies are authorized to be established and maintained in competition and conflict with existing State agencies whenever such States do not agree to accept and operate under the prescribed Federal policy.

And fourth, the policy of this bill is in plain contradiction with the unanimous recommendation of the President's Conference on Employment, September 26 to October 13, 1921, the Committee on Business Cycles and Employment, the report of the Committee on Business Cycles and Employment being a subcommittee of said conference, and the recommendations of the Senate Committee on Education and Labor investigating the causes and remedies for unemployment, report No. 2072, Seventieth Congress, second session, February 25, 1929.

Now, Mr. Chairman, that I may not disappoint the distinguished gentleman who addressed you a few moments ago, let me say that substantially none of the objections which he anticipated I should make to you are those which I hope to present, and I desire to deal with the utmost frankness with this committee with regard to the viewpoint of the associations that I represent. If this were merely a proposal to provide for the appropriation and support of a Federal employment system which undertook to secure the cooperation of employment agencies operating within the State, public in their nature, to coordinate these in order to secure more accurate, more timely and more relevent information with respect to the State of employment in the United States, we should be here to support and not to criticize the existing proposal. But that, we will undertake to show, is not its purpose, is not to be the effect of its operation, but that it goes far beyond that. Indeed, I do not hesitate to say that it goes further than any legislative proposal that has received the serious attention of Congress in seducing and ultimately undertaking to coerce the States into an adoption of a Federal policy and the acceptance of the

control and authority of a Federal official in the regulation of a matter of purely internal police.

My distinguished friend Mr. Green, for whose views on these very serious matters I have very great respect, presented to you a brief this morning which undertook to anticipate the discussion that I shall present to you, in which he cited various cases that I have called attention to in the course of this brief discussion, as though they questioned the validity of this particular bill. The purpose of those cases were merely to illustrate what I think you will accept as an established fact in law, and that is that the regulation of employment agencies, whether public or private, is a matter for the internal police of the separate States. I think nobody will question that fact, that the regulation of employment agencies within the States is not to be found as a Federal function under any authority of the existing constitution.

Mr. CELLER. May I interrupt to ask a question there, Mr. Chairman?

The CHAIRMAN. Put your questions down and ask them at the conclusion of the statement.

Mr. EMERY. And preliminary to an examination of these propositions, I want to call your attention to the fact that this is not a new proposal in legislation. This bill is identical even in language, with substantially two exceptions, with S. 1142 and H. R. 4305, identical measures proposed in the Sixty-sixth Congress, first session, which were the subject of hearings for nearly six weeks by a joint committee of the House and Senate. Mr. Kenyon introduced the Senate bill, Mr. Nolan of California the House bill, and at the conclusion of those hearings the matter was abandoned. So this is not a new proposal of legislation but one that has been rejected in the past by Congress, and the two matters that have been introduced into it and were not found in the original bill were the declaration that in the operation of these agencies they were to be impartial, an excellent thing in itself, to which, of course, no one could make the slightest objection; and furthermore, that in their administration authorization was given for the formation of advisory councils of employers and employees to confer and advise upon employment problems that came up from time to time—an excellent thing in itself, which is being done today.

Now, Mr. Chairman, in the discussion of what I may call the legal phases, I take as my text the splendid statement made by the distinguished Senator from New York when he was discussing the constitutionality of the flexible tariff in the Senate, and he has put this matter so well that I could not improve upon it, when he said:

> The Supreme Court is not the only guardian of the Constitution. Each one of us is under a coequal duty with the members of the bench to defend and maintain the Constitution and vote only in favor of legislation that conforms with the requirements of that instrument. There are innumerable situations where Congress in the last resort is the determinant of constitutionality and where from its decisions there is no appeal to any court. The standard of constitutionality which each one of us must apply is somewhat different from the standard which the Supreme Court employs in passing on legislation. When the constitutionality of a bill is contested in the courts, every doubt is resolved in favor of its constitutionality; every fact which is assumed by Congress to be a fact is not disputed by the court unless the assumption flies violently in the face of reason, and when we in this body pass upon a bill we can not give ourselves the benefit of these doubts. We ought not knowingly to write into a bill assumptions of fact which

we know are not true. We ought not to take advantage of the Supreme Court's procedure by framing legislation which in form only is constitutional but which in substance is in deadily conflict with the requirements of our organic law.

And apropos with what has been said with respect to appropriations made by Congress in the past in aid of matters wholly within the States, but which I will show are easily distinguishable from the proposals of this bill, the distinguished Senator said the time was ripe to reject the question and inquired: "Have we not gone far enough, indeed too far, in the direction of centralization?"

Now, Mr. Chairman, what does this bill propose to do? It proposes to establish in the Department of Labor a bureau to be known as the United States Employment Service. You have that already, but the law under which it now operates is to be repealed and this becomes the substitute legislation. The director general is to be appointed by the President, with the advise and consent of the Senate, at a salary of $10,000 per annum. He is authorized to appoint a woman assistant director general subject to him, and it shall be the province and duty of the bureau to establish and maintain a national system of employment offices for men, women, and juniors who are legally qualified to engage in gainful occupations, and, in the manner hereinafter provided, to assist in establishing and maintaining systems of public employment offices in the several States and the political subdivisions thereof. The bureau is further authorized to furnish and publish information as to opportunities for employment, to maintain a system for clearing labor between the States, and to do this by establishing and maintaining uniform standards, policy, and procedure, and aiding in the transportation of workers to places of employment. And the service is directed to be impartial, neutral in labor disputes, and free from political influence, an addition to and a great improvement over the original bill, so far as there is no suggestion made except one calling for the voluntary cooperation of existing agencies, public in their nature, between the States, and endeavoring to secure their coordination in cooperation with the Federal service.

Apart from details, then, the essential policy and purpose of the measure to which we direct your attention is this: The bill authorizes an appropriation of $4,000,000 per annum for four years, a total of $16,000,000. Seventy-five per cent of this appropriation, or $3,000,000 per year, is to be apportioned among the several States in the proportion which their population bears to that of the United States. That sum is to be employed in the establishment of public employment offices in the States in accordance with the following plan: Wherever the State, through its legislature, authorizes an existing employment agency or establishes one to cooperate with the Federal agency, the director general apportions up to his allotment an amount equal to that appropriated by the State for the support of such State agency, not to exceed, of course, 5 per cent of the 50 per cent of the amount necessary to operate the agency. But—and this is the vital and controlling feature—each State must submit to and receive the approval of the director general of employment for its plan of operation before the State may receive Federal aid; and while receiving it the State agency must continually report operations in such form as the director general prescribes. He alone determines whether the State offices are, to quote the bill, "conducted in accordance with the rules and regulations and the standards of efficiency prescribed by the director general." So at this point it is proposed that the Federal appropriation shall be given to the State for the operation of its local exchanges on a 50-50 basis, or for the establishment of new exchanges where none existed before, in return for which the State agrees, through its legislature, that it will operate the public agencies in accordance with the rules and regulations which the director general prescribes. Whenever such agencies do not conform to the Federal director's regulations, or when, in the opinion of the director general, the State agency does not properly expend itself either the Federal aid or the moneys appropriated out of its own State treasury, he may revoke the certificate and withdraw the aid, subject to an appeal to the Secretary of Labor.

Now, since it may appear that I am quoting from other than the bill, let me turn to the provisions of the bill itself, section 9:

> It shall be the duty of the director general to ascertain whether the system of public employment offices maintained in each State is conducted in accordance with the rules and regulations and the standards of efficiency prescribed by the director general in accordance with the provisions of this act. The director general may revoke any existing certificates or withhold any further certificate provided for in section 7, whenever he shall determine, as to any State, that the cooperating State agency has not properly expended the moneys paid to it or the moneys herein required to be appropriated by such State, in accordance with plans approved under this act.

You perceive that goes directly to approval or disapproval of the expenditure of the State's own funds, as well as the expenditure of the Federal aid in conformity with the rules and regulations prescribed by the director general.

Mr. SUMNERS. Mr. Emery, would it interrupt you there to ask a question?

Mr. EMERY. Not at all.

Mr. SUMNERS. The result of the action of the Federal officer, however, is merely to withdraw from use in the States the Federal funds, is it not?

Mr. EMERY. Yes, sir. If you will permit me, I think I will anticipate your thought there.

Mr. SUMNERS. I will withdraw the question then and not clutter up the record.

Mr. EMERY. If you will permit me to conclude my statement with respect to the form of the bill, I think I will anticipate just what you have in mind.

The plan of control does not stop, however, with financial persuasion. That, I think, we may appropriately call the plan up to this point. It goes much further. There is a balance of $1,000,000 per year within the proposed appropriation, and this is available for two major purposes to be found in section 10 of the bill. These are to be expended: First, to establish a system of public employment offices subject to Federal control within the States which have not established such offices; and second, to establish and maintain such offices in States which already possess a system of public employment offices but which, in the naive language of the bill "have not complied with the provisions of section 4," that is, have not, through their legislatures, accepted Federal aid upon the terms upon which it is offered—that is, the section through which this control is ac-

cepted. In such a condition the bill now provides that the director general may treat with the governor of the State, pending an agreement—may treat with the governor of the State to secure the establishment of a Federal bureau in that State. This is where the legislature has not acted, remember, but pending agreement with the governor—because the governor may not agree to accept the condition—it is a somewhat startling proposition, as you gentlemen will observe, to turn from the legislature, which alone is charged with the declaration of the internal policy of the State with respect to the regulation of employment agencies——

Mr. CELLER (interposing). Before you get a misconstruction of that, I think it is fair to state that the Government can not go into the State without the governor's consent. If you will read that carefully, Mr. Emery, you will see that.

Mr. EMERY. Yes; I will be glad to read it.

Mr. CELLER. You must have an agreement first with the governor. That is on page 9.

Mr. EMERY. I am reading page 9. It says that—

> In States where there is a State system of public employment offices, but where the State has not complied with the provisions of section 4—

that is, has not accepted Federal aid—

> in establishing a cooperative Federal and State system of public employment offices to be maintained by such officer or board and in such manner as may be agreed upon by and between the governor of the State and the director general.

It does not say that he may not enter the State; it says that he may approach the governor, the legislature having failed to act. That, I think, is the obvious conclusion to be drawn from the language of the bill, and, of course, that I cheerfully submit to the interpretation of the committee. But suppose the governor does not care to accept the responsibility of undertaking to do what the legislature has either failed or refused to do, what then? Does that end the matter? No, pending the conclusion of such agreement—that is, an agreement with the governor—but for not more than one year, the director general may establish and maintain in any such state a system of public employment offices under the control of the director general. Now that final condition I beg to call to your attention, is one in which neither the State legislature has accepted the Federal aid, it has failed or refused to act, the governor has not reached an agreement with the director general of employment. Does the Federal Government then remain within its own jurisdiction? No, under the terms of this bill you, the Congress of the United States, are authorizing and directing him to establish, if in his discretion he desires to do so, a Federal system of employment offices in that State which already has a system of its own, and which eventually, therefore, comes into either competition or conflict with the local agencies there established.

There are the plain terms of the bill, and I am satisfied that a great many of the gentlemen who hastily approved this measure and adopted resolutions with respect to it, and have told you that everybody favors it, have not read those provisions of the bill in which, to an extent never before proposed, I submit to you, in congressional legislation—never has it been suggested that when the State refuses to fall for the seductions of Federal aid, the Federal Government

through its agent would undertake to compel or secure the acceptance of the policy which it proposed to put into force, by establishing a conflicting agency of its own in the State with Federal money.

Mr. MCKEOWN. It is just for one year, is it not?

Mr. EMERY. For one year. Of course, it would be a more aggravated offense if it was to be permanent. But if it is beyond the power of the Federal Government to authorize that at all, it is not minimized by saying he can do it for a day or a week or a year. If a man has nothing in his pocket there is no way that he can draw a dollar out of it, not even a cent, which is much less, and if a man has no power to do the thing, or Congress possesses no power to undertake to establish a policy of that character, it can not maintain it for a year, any more than it can maintain it for a day.

Mr. MICHENER. That was a provision in the Kenyon-Nolan bill, was it not?

Mr. EMERY. Yes; it was one of the reasons for its rejection at that time, I have no doubt.

Mr. MICHENER. As a matter of fact, then, this bill is not new legislation, it is not a new proposition at all; it is matter that was before the country and Congress fully in 1919 when extensive hearings were held. Am I correct?

Mr. EMERY. Yes, sir.

Mr. MICHENER. I remember those hearings, but I presumed that this bill was something new, that it presented some new solution. Am I wrong?

Mr. EMERY. There are only two new provisions in the bill, and I call these to the attention of the committee. The one declares, "It is hereby declared to be the policy of the Congress that the service authorized by this act shall be impartial, neutral in labor disputes, and free from political influence." An excellent thing.

And I think "B" and "C" on page 9 are new. The one provides: "In carrying out the provisions of this act the director general is authorized and directed to provide for the giving of notice of strikes or lockouts to applicants for employment." And "C," "In carrying out the provisions of this act the director general is authorized to provide for establishing employment offices for individual occupations."

The amount of money appropriated, the spread of the appropriation—if I recall correctly, the original bill provided a 3-year appropriation; this provides a 4-year appropriation. But otherwise all the terms of the bill, as I have said, are identical, substantially identical. There may be one or two words in here that are not in there, but they do not militate against the plan that I have described to you, and which is clearly presented by the terms of the bill.

I am not going to take the time of this learned committee of lawyers to present to you a great series of incontestable cases that run to the effect that this comes under the operation of the tenth amendment, among the powers prohibited to the Federal Government and reserved to the States and the people. We have had numerous cases of that kind, and one of the cases to which I referred in my brief in the Senate was spoken of this morning in a somewhat extensive argument by the distinguished counsel whom Mr. Green quoted, the case of Chicago *v.* Kramberger (238 U. S., 77). I quoted that case for only one reason, and that was this: That if the States desired to exchange their authority with the Federal Government, the Federal Government has no

right whatever to take it, and the State has no right whatever to give it. For, said the Supreme Court of the United States in that case, "this power"—that is, the police power—"can neither be abrogated nor bargained away. It is inalienable, even by express grant."

I know it may be said, as was remarked this morning, that the police power of the States may be exchanged for Federal appropriation, as indicated in the maternity act, but I wish to direct your attention to the fact that upon the express recommendation of the President of the United States the policy expressed in the maternity act was properly abandoned by Congress, therefore it constitutes no precedent for the continuation of this policy. It was also remarked in the course of discussion this morning that the cases which went to the Supreme Court in connection with the maternity act—that is, Frothingham *v.* Mellon and Massachusetts *v.* Mellon, in the Two hundred and sixty-second United States—were authority for the validity of legislation of this character. Well, of course, the court declined in that case to entertain jurisdiction, which was naturally the first case raised, and in declining to entertain jurisdiction on behalf of a private citizen undertaking to inquire into a general appropriation act, or on the application of the state of Massachusetts, they said they did not show a sufficient property interest to justify the court in taking jurisdiction, but the court said expressly:

> We have reached the conclusion that the cases must be disposed of for want of jurisdiction, without considering the merits of the constitutional questions.

They were therefore not passed upon at all.

Mr. SUMNERS. Under the Frothingham decision, who could litigate the question of the extent of authority on the part of the Federal Government to make that character of appropriations?

Mr. EMERY. Nobody, as I see it, under the form of the bill. If the bill had been different in form—let us suppose, for example, that Congress had levied a special tax upon the people of the United States for the purpose of creating a fund out of which to pay the appropriations to the various States, which were provided for in the maternity act, and then the individual taxpayer might either have paid the tax and brought an action for its recovery, or might have undertaken to restrain the payment, the enforcement of the law, and might on that ground have been able to contest it, for there there would have been a specific issue, but this was merely a trifling item in a very large appropriation bill.

Mr. SUMNERS. I recognize that Congress must be the judge of its own constitutional powers and must decide that question upon the point as to whether or not a question can be litigated.

Mr. EMERY. Well, you realize the reason I emphasize the thing is that in the many questions of legislation that come before you, you can exercise many powers in a form that they can not be questioned, and as I have said, the protection of the constitutional authority is not reposed solely in the court; it is reposed in the legislative and executive officers who act under its terms, and it is in the hands of the citizens, who must himself undertake to provide political factors.

Suppose, for example, that you gentlemen provided tomorrow a 3-hour day for Government employees. Nobody could question the exercise of your power in a court. The remedy would have to be political.

Mr. SUMNERS. Congress interprets the Constitution and there can be no remedy except that which the people apply?

Mr. EMERY. In many instances the remedy is only political.

Mr. CELLER. Mr. Emery, you said that the principle—I presume you mean State help—was abandoned. That is not quite true simply because we no longer have a maternity aid to States. It may be that the principle of maternity aid to States was abandoned, but the principle of State health has never been abandoned. The principle is still sound, as announced by the Supreme Court in that very maternity case, Massachusetts *v.* Mellon, page 482, where the court went out of its way to say that there was no coercion whatsoever upon the State; the State could say, "we will take it or we will leave it." That being the case, there was nothing in the nature of duress or the forcing of the State to take that maternity aid. Now, can you not with equal force argue that there was no coercion here in this bill compelling the State to accept this appropriation for the purpose of alleviating unemployment?

Mr. EMERY. Pardon me, you have asked me two questions. If you will permit me to distinguish them, I will attempt to answer them.

Mr. CELLER. Referring to the principle now.

Mr. EMERY. First, I said that the policy pursued by Congress in respect to the maternity act is not a precedent, because you abandoned the policy by the repeal of the appropriation, so far as that specific metter is concerned.

Mr. CELLER. You went further. You said the principle.

Mr. EMERY. I will take the second question now—pardon me. The second proposition as you state it is the one which the Supreme Court referred to in the Massachusetts case, and that was that inasmuch as the State was offered a contribution by the Federal Government which it could accept or reject, it had it within its own power to decline the Federal trespass within its borders. But that is not what this bill does. It goes far beyond that. As I have explained to you, and as the bill plainly states, if you do not accept the Federal policy, what follows? Then we authorize the director general, either by agreement with the governor of your State, the legislature having failed to, or refused to act, and the governor failing to reach an agreement, to go into the State and for a year maintain within the State a Federal body of exchanges. That was not proposed in the maternity act. Nobody said in the maternity act that if the States do not accept the aid and pursue the Federal policy we will undertake to compel you to do it by a coercive measure; on the contrary, they said, "if you don't want it, don't take it."

Mr. CELLER. Would you accept the bill with that provision stricken out, about going into the States?

Mr. EMERY. If it met the objection I am now about to state. The next objection to the bill, to which I called your attention, is that the policy of this bill is in plain contradiction with the unanimous recommendations of the President's Conference on Unemployment, the committee on business cycles and unemployment, being a subcommittee of the conference, and the recommendations of the Senate Committee on Education and Labor investigating the causes and remedies for unemployment—and let me say as a preliminary explanation to this—and this goes to the very heart of the practical question that is here presented—first, the sources of employment are private, and

only to a very small extent public. The National Government itself is a large employer, and it becomes the stimulator of employment, and so you have given consideration to another bill here which undertakes to make a contribution to the regularization of employment in periods of depression by timing Government construction to synchronize with that condition. To the extent that that may be actually brought about it is an excellent policy, but it is one which I understand the administration has been undertaking to carry through as the result of the large appropriations made already for building construction. I know it was a policy that was advocated and frequently made the subject of addresses by the President of the United States while he was Secretary of Commerce, and we say to any policy of that kind that can be worked out within practical terms, "Godspeed; let us all undertake to help it along and time our public expenditures to take up the slack of private employment."

But I say secondly that the problem of employment is local largely and that, as the Senate Committee on Education and Labor said, the remedy ought to be administered close to the disease. The distinguished gentleman from Chicago, referring this afternoon to the somewhat complex problem of how to keep a number of longshoremen at work, alluded to what Seattle did. Exactly. Seattle solved a local problem in local terms. Every greater problem of employment is largely local.

It does not answer the question to say that you are going to provide for the circulation of labor. Do gentlemen mean that they are going to provide railroad transportation to move workers from place to place? That might result in very serious consequences to particular States. But more than that, Mr. Chairman, we can only move them to a job after the job has been found. Employment agencies can not make jobs; they can only undertake to connect men with the jobs, and so far as any coordination and cooperation between the National Government and the States is concerned, it will best work out a problem of that character as the conferences, whose conclusions I shall directly call your attention to, have said. They have stressed at all times that there must be voluntary action, not coercion, not compulsion, and that the Federal Government should never under any circumstances enter into the work of local placement. That has been condemned, as I want to call your attention to now, in the conclusions of the President's Conference on Unemployment called in 1921. Parts of that report have been read to you but the significant parts have apparently been omitted or did not attract the attention of the readers. There were 100 representatives in that conference called by the President in Washington in September, 1921. The list discloses representative men in every calling, leaders in the great labor organizations, manufacturers, bankers, business men in all the various walks of life, economists, professional specialists who had een intimate students of this problem. Their conclusions were expressed in a resolution adopted unanimously by the conference on the 11th day of October, 1921. I ask that this may be inserted in the record at this point, Mr. Chairman, for the information of the committee, so that I may not read the entire resolution to you. I will refer only to the pertinent passages.

The CHAIRMAN. Perhaps you had better read it at this point.

Mr. EMERY. Very well, sir. [Reading:]

OUTLINE OF PERMANENT EMPLOYMENT SYSTEM

(Adopted by the conference, October 11, 1921)

1. A permanent system of employment offices for bringing workers and jobs together with the quickest despatch is necessary, both in times of depression and prosperity.

2. Your committee finds that there are now 25 States which have established State employment systems, and public employment offices are now being operated in about 200 cities, of which about 17 are purely municipal enterprises. Most of the 200 offices are supported jointly by the State and municipality. Your committee feels that in any permanent system the State should be the operating unit of such employment offices, and that the extension of such offices should be encouraged. The Federal Government itself should not operate local offices or do placement work.

And that is precisely what this bill proposes to do, in direct contradiction with the recommendation of this conference.

Then the conference went on to suggest a constructive method of securing cooperation and coordination of national and local effort, as follows:

3. However, for the purpose of bringing about coordination, the Federal Government should—

(*a*) Collect, compile, and make available statistical information.

That is provided for in a more extended form by one of the bills in this group.

(*b*) Collect and make available information which will facilitate interstate placements.

(*c*) Through educational measures improve standards of work and encourage the adoption of uniform systems.

4. The existing provision of the Federal Government and many State governments for all branches of such work is inadequate, and should be strengthened. The work is of first-rate importance, and should be recognized as a job for men of first-grade ability from the top down. The director should be appointed directly by the President. Adequate salaries should be provided and adequate safeguards to secure the proper personnel and to protect the tenure of office.

5. An adequate permanent system of employment offices as above suggested would obviate the necessity of creating new offices whenever new emergencies arise. It would also prevent the public employment office from being regarded as a mere temporary philanthropic device, and thus through misunderstanding from not being used generally.

6. In order to secure and maintain the confidence of both employers and workers in the impartiality of the service rendered and the statistics published, an advisory committee consisting of representatives of employers and workers should be appointed to cooperate with the director as well as a similar system of local advisory committees to cooperate with the State and municipal offices.

That goes to the very question that I just emphasized, and you will observe that the two new items introduced into the bill represent the recommendations made in the sixth provision of this resolution. But the resolution, you see, is most emphatic in declaring that the Federal Government should not enter upon local placement work, and that only State agencies of a local nature should be employed for this purpose.

Now this resolution was further emphasized by the adoption the same day of a further resolution:

1. Cooperation with the emergency employment agencies erected by the State's municipalities.

2. Informing States in which there is scarcity of labor of the situation in States where there is surplus of labor of the kinds desired.

3. Securing and compiling information on employment opportunities throughout the country.

The subcommittee appointed then on the subject of business cycles and unemployment endorsed the same principle again, and the chairman of that committee was Mr. Owen Young, and Mr. Matthew Woll, vice president of the American Federation of Labor, was one of its members. The Secretary of Commerce was the chairman of that meeting, now President of the United States.

Then on March 3, 1928, the Senate adopted a resolution in the Seventieth Congress which directed the Committee on Education and Labor to investigate the causes of unemployment, the methods of relief, including organization and extension of the system of public employment agencies, Federal and State. The committee held extensive hearings and made a unanimous report on February 25, 1929. Summarizing its views, the committee expressed the following conclusions with respect to the feasibility of cooperation of Federal, State, and private agencies with respect to all the subjects related to the unemployment program. That is the title of their conclusions:

> Your committee has discussed this phase of the survey as it has proceeded with this report, and there is little to add. In general it is the opinion of your committee that the responsibility should be kept as close to home as possible. Private agencies should make first effort and should do everything they can for themselves. The States should contribute only that service that private agencies find impossible, and the Government—

that is, the National Government

> should merely coordinate the work of the States and supply any effort which is entirely and purely of a national character.

Then it says further in summarizing its recommendations:

> The States and the municipalties should be responsible for building efficient unemployment exchanges. The Government should be responsible for coordinating the work of the States so as to give a national understanding of any condition that may arise, and so as to be able to assist in any national functioning of unemployment exchanges.

The committee further emphasized repeatedly throughout its report the fact that the private operators and agencies present the source of employment and the responsible means of meeting the problem of stabilization. Thus referring to this the Senate committee says:

> The organization to handle the disease in this form—

that is, unemployment—

> should be local, it seems to your committee. It should be one which would be responsible for local conditions, one which is responsible also to local officials, to local employers, and to local employees.

It could not be more emphatic in condemnation of the plan here proposed.

And finally the committee quotes Doctor Commons, who advised your committee that the States and cities should establish and operate the unemployment exchanges, and that the Federal Government should merely establish an organization of experts to coordinate the work of the local exchanges.

> Your committee is in accord with the idea that the Federal Government should remain as far away from the operation of these local offices as is possible. The employment exchanges should be local.

Now, that is repeated over and over again, Mr. Chairman, in the course of that committee's report, and I bring it to your attention thus to show you that the President's Conference on Unemployment, the subcommittee which is appointed under the chairmanship of Mr. Young, merely indorsed its conclusions and recommendations; the Senate committee that went into this subject for several months under the chairmanship of Mr. Couzens made the report to which I call your attention here, and while I have only read extracts from it to you an examination of the report by you will show that over and over and over again it emphasizes the fact, first, that the employers in the respective communities are the sources of employment, and that any system which is proposed should have their support and cooperation and confidence or it can not work. And I regret to say that when this bill was before the Senate Committee on Commerce, although we made an application to be heard, the hearings closed when the case for the proponents was presented, and we had no opportunity to present our case except through the brief which we asked the Senate Committee on Commerce to then permit us to file. So that we had not the opportunity that this committee has so graciously accorded us.

I want to show to you, Mr. Chairman, if I may, the serious defects in the plan that is presented from the standpoint of our traditional system of government; that it undertakes to set up, not a voluntary but a corecive method of forcing the States into the adoption of a Federal policy. Now, the moment that the director general of employment is given the authority to fix the regulatory conditions under which all the bureaus, local in their nature, must operate in order to avail themselves of Federal aid, the State is surrendering in returning from a Federal appropriation the development of its own policy in this respect, which you could not take from it but which it must adopt and make its own policy if it wants your aid and assistance.

And finally, not satisfied with the endeavor to secure voluntary action in this respect, it has undertaken by coercive action, by the threat that it will establish competing agencies or that it will deal with the governor where the legislature does not undertake to act, it has practically said to the state: "Either adopt our policy, even though you have in 25 States in the Union an established system of employment—adopt our policy or we have the authority to establish a competing or conflicting agency under our direction, with the great resources of the Federal Government behind it."

Now, gentlemen, apart from this question of law, apart from the serious objections to this tremendous endeavor to carry the Federal Government further into this policy I suggest that that is not the the best method of approaching this subject; that if this subject is to receive the support of all the great sources of private employment in the United States, it must be presented to them with all the local agencies cooperating under local government and local policy and State authority, in order to enlist that assistance and cooperation. No one remotely in Washington is capable of directing and regulating internal and local affairs of States with respect to a problem as delicate and as far-reaching as this, and you have only to touch the outskirts, of it to realize how many complicated questions are presented. It was said in respect to technological employment, for example, that the establishment of new labor saving devices was throwing men out of their jobs and making difficult questions of adjustment. That is partly true, but it is not peculiar to employers alone; it is peculiar to all industry.

I was in a conference this last week where there were two very distinguished railroad presidents discussing this situation, and they pointed out that the railroad business, which had been the most stable business in America, was being reorganized all over again in order to meet the intense competition of the passenger carrying automobile and the freight carrying truck, which has cut so deeply into the passenger and freight traffic of the railroads that it has raised an entirely new problem in railroading, and when that difficult situation was presented by one of the railroad executives, the head of one of the great oil companies of the United States said:

> Have you considered the extent to which that is offset by the new volume of freight developed with the rise and expansion of the oil industry?

And one of the presidents paused and the gentleman said:

> I can not speak for the entire oil industry, but I can tell you this, that my own company is now paying per annum for the freight carriage of our products to all parts of the United States, to the railroads of the country, more than was paid by the entire oil industry of the United States 12 years ago.

That is the character of the problems that we are facing, and I believe, Mr. Chairman, that it will recommend itself to this committee that voluntary local action coordinated and cooperating under the leadership of the Federal Government of the United States, as it has been doing, can make a great contribution to the solution of this problem, but the ultimate unit of responsibility is local, and the ultimate unit for the responsibility of all our social problems should be kept local. The more you ask citizens to look to Congress and to Washington to settle their own local difficulties, the less responsible you make them and the more difficult become the great social problems that require individual initiative, individual intelligence, and individual responsibility for their guidance.

So I hope I have made it clear that our objections to this legislation to-day are not predicated upon any light and fantastic objection, but go to the nature of the proposal which threatens the very integrity of local self-government and creates what may be regarded as a precedent for encroachment into the government of the State. You are already overloading the Federal Government with administrative responsibilities so great that it threatens to break down under the obligations of administration already thrust upon it, and now you offer this as an opening wedge, because action of this nature to-day would merely be the opening of the door to the further expansion of the same authority and the further enlargement of appropriations to take over this placement. And remember, gentlemen, that when you are operating your local agencies for placement purposes, when you are undertaking to provide regulations under which they shall administer all these local questions relating to employment agencies, you are actually establishing the policy of the State with respect to private and public employment agencies—and when I speak of private agencies I mean that vast body of agencies that are within every plant in the United States, through its personnel, its management, undertaking to meet its own problems of placement and adjustment of men within its own industry.

I thank you, gentlemen.

Mr. MONTAGUE. Have you made any approximation of the number of employees this legislation would place upon the Government pay roll?

Mr. EMERY. No; we have no means of estimating that, Mr. Montague, except the limits of the appropriation.

Mr. CELLER. The Manufactuers' Association is not opposed, I take it, to S. 3059?

Mr. EMERY. No, sir.

Mr. CELLER. So you addressed your opposition simply to S. 3060?

Mr. EMERY. Yes, in its present form.

Mr. CELLER. Would you be opposed to any bill which would permit Federal aid to States which are willing to receive that aid?

The CHAIRMAN. That question is not before us now.

Mr. CELLER. That is part of this bill as amended, Mr. Chairman. There is an amendment to this bill, I think, that might cover the objection offered by Mr. Emery.

The CHAIRMAN. You mean if amended?

Mr. CELLER. Yes.

Mr. EMERY. Pardon me, what was the question?

Mr. CELLER. I say, would you voice objection to this bill if it were amended in such a way as to give Federal aid only to such States that are willing to receive the Federal aid in case of unemployment?

Mr. EMERY. Well, you refer to Federal aid alone now, not with the accompanying conditions that are attached in this bill?

Mr. CELLER. Yes.

Mr. EMERY. I can not separate them from it, because the Federal aid in this bill is accompanied by conditions.

Mr. CELLER. I am addressing myself to the objection that you voice to the bill, section 10, that portion of it at the bottom of page 8 and the top of page 9, where you vehemently expressed objection because the Federal Government could go in, through its director general of employment, into a State and set up an agency for one year, pending agreement made with the governor of that State. Now, if that was striken out, would you be in favor of the bill?

Mr. EMERY. Would the remainder of the bill be satisfactory?

Mr. CELLER. Yes.

Mr. EMERY. No, it would not, for the reasons which I have given you.

Mr. CELLER. Now, private agencies under the conditions which have been obtaining heretofore have not helped very much in the solution of unemployment, have they?

Mr. EMERY. Well, of course employment agencies are not a solution of unemployment. They are an aid in helping those who are without work to find what jobs are available, to the extent that they are well organized and efficiently managed.

Mr. CELLER. Well, these employment depressions have come with regularity and apparently the agencies that we now have, have not been of much help in alleviating those conditions.

Mr. EMERY. Well, I would say in reply to that, I fear you are emphasizing too much the contribution that the employment agency can make. I think it can make a considerable one, but I think the chief contribution is to be found in the assembly, analysis and compilation and distribution of timely and pertinent information with respect to these local conditions, assembled by municipal and State agencies, and coordinated by the Federal Government.

Mr. CELLER. I will put it this way: In other words, the present state of affairs is quite unsatisfactory, is it not?

Mr. EMERY. Of course, the state of unemployment is highly unsatisfactory.

Mr. CELLER. In other words, the remedies that we have assumed and have tried heretofore have failed, have they not? There must be some change?

Mr. EMERY. I think the conditions for the control of the causes which produce unemployment are more thoroughly understood and that more intelligent and sympathetic effort is being made to control them, so far as they are within human control, than ever before.

Mr. CELLER. Is that not the trouble, we are getting sympathy all the time and no action?

The CHAIRMAN. Well, I hardly think that is pertinent.

Mr. CELLER. I will withdraw that statement. Since 1920 or 1921 we have had conferences, but have there been any concrete actions taken with reference to remedying this condition of unemployment since 1920?

Mr. EMERY. Yes, sir; there have been great numbers of them.

Mr. CELLER. Nothing but conferences?

Mr. EMERY. On the contrary, that is a subject, as I said in the beginning of these remarks, that individual manufacturing establishments and thousands of employers all over the country individually and collectively are doing everything in their power to steady and regularize the conditions of employment in their plants, and that after all is the great remedy.

Mr. CELLER. I did not mean to disparage what the manufacturers are doing. I know they are doing their level best, but I mean there has been nothing done so far as the Government is concerned in the nature of adopting any kind of legislation to help this problem. Has there been any legislation of any character since 1920 on this subject?

Mr. EMERY. Well, there has been. You have adopted a very large building program for building construction, which you are regularizing

Mr. CELLER. I do not mean that. I mean any concrete expression on the part of Congress as to the setting up of any agency to alleviate these conditions.

Mr. EMERY. I do not know of any particular one, but of course you proceed on the hypothesis that they can set up something that will do it.

Mr. CELLER. At least you agree to one set-up, S. 3059?

Mr. EMERY. I agree that it will make a contribution; that anything that improves our information, that is well organized and well managed, that enlarges our relevant and accurate information on the subject, is a contribution that the Federal Government can well make, and that is exactly what that conference report urged you to do in 1921, and you did enlarge the appropriation for the United States Employment Service in accordance with that recommendation, to perform such function as it could in the matter.

The CHAIRMAN. Is there anything more at this time?

Mr. CULLEN of New York. Mr. Chairman, I realize the importance of these bills and these hearings, and that there are many speakers yet to come. There are several of my colleagues in the House who would like to be heard, but after holding a conference with them we have agreed not to interrupt the speakers who are to be heard, if we could get permission to note in the record of your hearings that the Democratic delegation from the State of New York is heartily in

favor of these bills and hopes that you will give them your serious consideration, with a view of reporting them to the House.

Senator WAGNER. Mr. Chairman, may I just ask your indulgence for a bit—a second? Mrs. Danley is here, and I neglected to introduce her. She does not want but a moment's time to present a communication from the Young Women's Christian Association of the United States in favor of this legislation.

STATEMENT OF MRS. E. E. DANLEY, REPRESENTING THE NATIONAL BOARD OF THE YOUNG WOMEN'S CHRISTIAN ASSOCIATION

Mrs. DANLEY. Mr. Chairman and gentlemen, I represent the National Board of Young Women's Christian Association, and I want to file this statement which tells you that the Young Women's Christian Association at the national convention in Detroit in April indorsed the three bills on unemployment then before the Senate, 3059, 3060, and 3061.

I want to say also that the Young Women's Christian Association has been for two years, in over 400 organizations, studying unemployment locally and nationally, and this action is not from just last-minute urging but comes because there has been a study made of the question.

Mr. MICHENER. You believe in the principle, but have you given n y definite consideration to the specific terms of these bills?

Mrs. DANLEY. These bills have been discussed, yes, in I do not know how many local organizations.

Mr. MICHENER. But at the Detroit meeting was any consideration given to the workability of these specific bills, or were you just in favor of any principle that would help the situation?

Mrs. DANLEY. Those bills were studied at Detroit, as I understand it. I was not at Detroit and I am speaking for Miss Eastman. But these bills have been studied, and as I said, they indorsed the bills.

Mr. MICHENER. For instance, I presume every member of this committee, possibly—I know I have—has received two or three hundred letters from Young Women's Christian Association secretaries all over the United States, indorsing these three bills. I have written to some of them and sent them copies of the bills and asked them about certain things and I find that they do not know anything about the bills; they just got word that this was a good thing and they write in in support of it. Now, I want to know if you have simply gotten word that this is a good thing, or whether you know what you are talking about when you indorse these three specific bills?

Mrs. DANLEY. Well, those three bills have been studied I am very certain.

The CHAIRMAN. By you?

Mrs. DANLEY. I am speaking for Miss Eastman, who does know more about it. But they have been definitely studied. That was probably particular individual cases, because we do not hand down things without study beforehand. Our convention does not decide on anything without study, and these bills have been studied by local organizations. I know that for certain.

Mr. MICHENER. I am glad to know that.

Mrs. DANLEY. I know they have been studied. I know that, Mr. Michener. I wish to file this statement of the action of the Detroit convention.

(The paper referred to follows:)

YOUNG WOMEN'S CHRISTIAN ASSOCIATION,
New York, N. Y., June 9, 1930.

Hon. GEORGE S. GRAHAM,
Chairman Committee on the Judiciary,
House Office Building, Washington, D. C.

DEAR SIR: The Young Women's Christian Association has within its membership hundreds of girls and women who are working in business and industry. They have been so directly affected by the unemployment situation that something over two years ago the national assemblies of these two groups asked the whole association to study the unemployment situation with a view toward helping promote measures that might aid in stabilizing employment. This has been done by local associations and by the national board.

Local associations have also cooperated with other agencies in efforts to improve local situations and alleviate the hardship of those affected by the situation.

Our employment bureaus are still crowded with women and girls who are out of work. Our secretaries and local committees report serious and widespread distress both within our membership and among other groups in various communities.

The national convention of the Young Women's Christian Association on April 28, 1930, indorsed the three bills on unemployment then before the Senate, S. 3059, S. 3060, and S. 3061, and urged their passage. We believe that the purpose of the two now before your committee, S. 3059 for the promotion of long-range planning of public works, and S. 3060 relating to employment bureaus, will aid in relieving the situation. We earnestly hope that your committee will report these bills favorably and that the members of your committee will do everything possible to secure consideration by the House as soon as possible.

Very truly yours,

MARY N. B. FRENCH,
Chairman Executive Committee.

The CHAIRMAN. The committee stands adjourned until to-morrow morning at 10 o'clock.

(Whereupon, at 5 o'clock p. m. the committee adjourned until 10 o'clock a. m., Thursday, June 12, 1930.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Thursday, June 12, 1930.

The committee met at 10 o'clock a. m., Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. The committee will please be in order. Mr. Emery, you wanted to present something further.

STATEMENT OF JAMES A. EMERY, REPRESENTING NATIONAL ASSOCIATION OF MANUFACTURERS OF THE UNITED STATES OF AMERICA—Resumed.

Mr. EMERY. Yes, Mr. Chairman. I referred to two statements yesterday of President Coolidge, which I did not happen to have with me, and with the Chair's permission, I would like to read them into the record. They are very short.

The CHAIRMAN. Very well.

Mr. EMERY. The first is from the address of President Coolidge to the business organization of the Government, on June 22, 1925, where he said:

Unfortunately the Federal Government has strayed far afield from its legitimate business. It has trespassed upon fields where there should be no trespass. If we could confine our Federal expenditures to the legitimate obligations and functions of the Federal Government a material reduction would be apparent. But far more important than this would be its effect upon the fabric of our constitutional form of government, which tends to be gradually weakened and undermined by this encroachment. The cure for this is not in our hands. It lies with the people. It will come when they realize the necessity of State assumption of State responsibility. It will come when they realize that the laws under which the Federal Government hands out contributions to the State is placing upon them a double burden of taxation—Federal taxation in the first instance to raise the moneys which the Government donates to the States, and State taxation in the second instance to meet the extravagances of State expenditures which are tempted by the Federal donations.

The second is the last utterance of the President on this subject, addressed to Congress on December 5, 1927, when referring to the termination of the appropriations for the continuation of aid under the maternity act, he said:

This opens up the whole subject of State aid, which despite frequent warnings continues strongly intrenched in Federal operations. While the amount of money taken annually from the Federal Treasury for subsidies to States is not inconsiderable, the dangers inherent in the policy are of far greater importance. To relieve the States of their just obligations by resort to the Federal Treasury in the final result is hurtful rather than helpful to the State, and unfair to the payers of national taxes. To tempt the States by Federal subsidies to sacrifice their vested rights is not a wholesome practice no matter how worthy the object to be attained. Federal interference in State functions can never be justified as a permanent continuing policy even if, which is doubtful, such interference is warranted by emergent conditions as a temporary expedient. As shown in the maternity and infancy act, when once the Government engages in such an enterprise it is almost impossible to terminate its connection therewith. We should not only decidedly refuse to countenance additional Federal participation in State-aid projects, but should make careful study of all our activities of that character with a view to curtailing them.

Then finally I direct your attention to this exceedingly brief statement by Abraham Lincoln in his first message to the Congress of the United States, which goes to the——

Mr. TUCKER (interposing). Have you given all of Mr. Coolidge's statement that you have read?

Mr. EMERY. Yes, sir. There is a preceding paragraph which I did not read, but if the committee wishes, I will incorporate it.

Mr. TUCKER. He says in that statement that he is opposed to the further extension of that principle?

Mr. EMERY. Yes, sir. So he said in the preceding statement.

In that first statement of Abraham Lincoln's, his first message to Congress, he said:

To maintain inviolate the rights of the States to order and control under the Constitution their own affairs by their own judgment exclusively is essential for the preservation of that balance of power on which our institutions rest.

That, indeed, appears to be axiomatic, but it is one of those great axioms that is too frequently forgotten in the present day, and blessed is the nation that remains still true to the axioms of self-government.

Mr. LAGUARDIA. Mr. Chairman, may I ask Mr. Emery a question or two? I was called on the floor last night and did not have the opportunity then.

Mr. Emery, you find that in time of industrial depression, when there is unemployment, it affects the so-called labor market, and there is a tendency to lower wages and longer hours?

Mr. EMERY. The best answer I can make to that is not abstract but concrete, and that is that in the present situation, which is one of depression, I know of comparatively few instances in which there has been any wage reduction, but on the contrary, they have been generally maintained. I am speaking of the manufacturing industry with which I am most familiar.

Secondly, the same organized endeavor has been made on the part of the manufacturers as a result of conference and action on their part locally and generally, to maintain as much employment as possible, so that part-time employment at the least is to be maintained by a reduction in hours rather than extension, in order to give employment to more men during a period of this character.

Mr. LAGUARDIA. And that results in a corresponding reduction of wages, that is, if this reduction of hours takes place.

Mr. EMERY. Naturally, men are not paid for work they do not do. Of course, no economic system would suggest that.

Mr. LAGUARDIA. But there is a weakening of labor organizations in times of unemployment?

Mr. EMERY. That, the labor organization would have to answer. I can point this out, if you will permit me, and that is that in a period like this, a period of depression, there is an immediate competition for commodities, more intense than at any preceding time. The result is that the price of commodities tend to fall. Therefore the purchasing power of the dollar tends to rise and actual wages as distinguished from nominal wages, increase, while maintained at the same level, in terms of their ability to buy. So that at the present time the wage standards that we have maintained are higher in terms of their purchasing power than they were before the depression took place.

Mr. LAGUARDIA. Well, it takes an economist to analyze that.

Mr. EMERY. It takes a housewife in the market.

Mr. LAGUARDIA. But the wage earner who is out of a job, that does not help him.

Mr. EMERY. That is true.

Mr. LAGUARDIA. I want to ask you this, if I may. Has your organization taken any stand in opposition to the farm relief bill?

Mr. MICHENER. Which bill?

Mr. LAGUARDIA. The first bill.

Mr. EMERY. Yes; very much to the first bill.

Mr. LAGUARDIA. How about the second?

Mr. EMERY. Yes; they did take a position, as I recall, of objection to it in its original form.

The CHAIRMAN. What relevancy has that to this proceeding?

Mr. LAGUARDIA. I am coming to the constitutional question. My next question was going to be, whether your organization takes any stand in opposition to the appropriations and activities of the Public Health Service?

Mr. EMERY. Not to its legitimate activities.

Mr. LAGUARDIA. Would your objections be met if all the appropriations were provided by the Federal Government, for this national employment agency?

Mr. EMERY. Would you mind repeating that?

Mr. LAGUARDIA. Would your objections be met if all the expenses of the employment agencies were met from Federal appropriations, without any appropriations from the States?

Mr. EMERY. Why, in this way, Mr. LaGuardia. You were not here yesterday and I do not want to tread too much over old ground. But the objection would be met if the Federal employment service, supplied with sufficient funds for the purpose, were encouraged to promote cooperation between the National Government and the States as distinguished from any attempt to coerce the States into the acceptance of the Federal policy.

Mr. LAGUARDIA. That would meet your objection?

Mr. EMERY. Yes, sir.

Mr. LaGUARDIA. You do not necessarily take the stand that the private employment agency is the ideal method of dealing with this question?

Mr. EMERY. I am not dealing with the private employment agency at all, except in so far as practically every manufacturing plant,—and I speak of them, of course, especially—is itself an employment agency.

Mr. LAGUARDIA. They have their own employment departments.

Mr. EMERY. That is a very vital part of every plant.

Mr. LAGUARDIA. I understand that where there are well operated and managed State employment agencies, there has been cooperation between the employment department of industrial establishments and the State agency?

Mr. EMERY. Yes, sir, and continuing cooperation. That is true, I think, of both the State organizations and the municipal organizations.

If there are no further questions, I will submit without quoting these other two paragraphs which I failed to read.

(The statements referred to are as follows:)

ADDRESS OF PRESIDENT COOLIDGE, MEETING OF THE BUSINESS ORGANIZATION OF THE GOVERNMENT, JANUARY 21, 1924

I take this occasion to state that I have given much thought to the question of Federal subsidies to State governments. The Federal appropriations for such subsidies cover a wide field. They afford ample precedent for unlimited expansion. I say to you, however, that the financial program of the Chief Executive does not contemplate expansion of these subsidies. My policy in this matter is not predicated alone on the drain which these subsidies make on the National Treasury. This of itself is sufficient to cause concern; but I am fearful that this broadening of the field of Government activities is detrimental both to the Federal and the State Governments. Efficiency of Federal operations is impaired as their scope is unduly enlarged. Efficiency of State governments is impaired as they relinquish and turn over to tc Federal Government responsibilities which are rightfully theirs.

ADDRESS OF PRESIDENT COOLIDGE, MEETING OF THE BUSINESS ORGANIZATION OF THE GOVERNMENT, JUNE 22, 1925

Unfortunately the Federal Government has strayed far afield from its legitimate business. It has trespassed upon fields where there should be no trespass. If we could confine our Federal expenditures to the legitimate obligations and functions of the Federal Government a material reduction would be apparent. But far more important than this would be its effect upon the fabric of our constitutional form of government, which tends to be gradually weakened and undermined by this encroachment. The cure for this is not in our hands. It lies with the people. It will come when they realize the necessity of State assumption of State responsibility. It will come when they realize that the laws under which the Federal Government hands out contributions to the States is placing upon them a double burden of taxation—Federal taxation in the first instance to raise the moneys which the Government donates to the States, and State taxation in the second instance to meet the extravagances of State expenditures which are tempted by the Federal donations.

This opens up the whole subject of State aid, which despite frequent warnings continues strongly intrenched in Federal operations. While the amount of money taken annually from the Federal Treasury for subsidies to States is not inconsiderable, the dangers inherent in the policy are of far greater importance. To relieve the States of their just obligations by resort to the Federal Treasury in the final result is hurtful rather than helpful to the State, and unfair to the payers of national taxes. To tempt the States by Federal subsidies to sacrifice their vested rights is not a wholesome practice no matter how worthy the object to be attained. Federal interference in State functions can never be justified as a permanent continuing policy even if, which is doubtful, such interference is warranted by emergent conditions as a temporary expedient. As shown in the maternity and infancy act, when once the Government engages in such an enterprise it is almost impossible to terminate its connection therewith. We should not only decidedly refuse to countenance additional Federal participation in State-aid projects, but should make careful study of all our activities of that character with a view to curtailing them.

FIRST MESSAGE TO CONGRESS OF ABRAHAM LINCOLN

To maintain inviolate the rights of the States to order and control under the Constitution their own affairs by their own judgemnt exclusively is essential for the preservation of that balance of power on which our institutions rest.

MESSAGE OF PRESIDENT COOLIDGE, TRANSMITTING THE BUDGET, DECEMBER

I am including in this budget an estimate of $1,108,000 for the promotion of the welfare and hygiene of maternity and infancy. I refer to this estimate for two reasons. The first is, that the authorization for this appropriation expires with the fiscal year 1929. The second is, that it marks the termination of Federal contribution to a project which is for State control and administration. The extension for two years of the provisions of the act for the promotion of the welfare and hygiene of maternity and infancy was approved with the understanding that its administration during these two added years would be with a view to the discontinuance of Federal aid thereafter. Six years of experience under the able administration that has characterized the Government's policy warrants this permanent withdrawal of Federal aid, assured that the States are now or should be able to carry on this work without aid or interference from the Federal Government.

The CHAIRMAN. I am going to call from this list that you have given me, Mr. Cadwalader, a distinguished member of the Maryland bar.

Mr. CADWALADER. Mr. Chairman, if it is agreeable to the committee, Mrs. Cooke, I believe, who is here from Boston, desires to go ahead. It is perfectly agreeable to me if it is to the committee to let her go first.

The CHAIRMAN. I understood you were to address yourself to the constitutional question.

Mr. CADWALADER. Yes, sir.

The CHAIRMAN. I think we shall hear you first.

STATEMENT OF THOMAS F. CADWALADER, REPRESENTING THE SENTINELS OF THE REPUBLIC, BALTIMORE, MD.

Mr. CADWALADER. Mr. Chairman and gentlemen of the committee: I represent here the Sentinels of the Republic, which is an organization formed some 8 or 10 years ago by a group of citizens in several cities; Boston, New York, Philadelphia, Baltimore, Washington, and other places, with a rather distinguished executive committee of 50 or 60 persons, I think. I can furnish their names. Many of them are known to this committee. In fact, one distinguished member of this committee, Mr. Tucker, is a member of that executive committee.

Our purpose is to study the constitutional aspects of legislation pending before Congress particularly and to urge in all cases a recurrence and an adherence to the fundamentals of our American Constitution.

We have no financial interest in any of these measures. We are the only so-called partiotic organization that I know of that actually carries its patriotism to the point of making an effort to put across its views which are substantially the views of the founders of our Government.

In regard to this particular measure, I listened with great interest——

Mr. TUCKER. Which bill are you speaking of?

Mr. CADWALADER. I listened with great interest to the arguments yesterday. I am referring to S. 3060.

Mr. Green, of the American Federation of Labor, admitted that this problem of unemployment is a world problem; that England, Germany, and other great nations have been wrestling with it for a number of years, that it has recently attacked our own land, and he suggested that we Americans should proceed to solve it by what he called an American method, by which presumably I suppose he meant passing these bills into legislation.

There are several things that might be by different people considered American methods of handling difficult problems. Possibly to some might appeal the suggestion that we ought to deal with this subject by constitutional amendment, providing that after a certain date unemployment should be prohibited. We do not think, however, with due deference to some of our fellow citizens, that that would be an efficient method, whether American or otherwise, of dealing with this problem.

We do not think, with due respect to the Senator from New York, to Mr. Green and to other proponents of this legislation, that the present is an efficient or indeed characteristically American method in the old-fashioned sense in which our organization claims to stand for Americanism.

In the first place, let us consider the legislation itself and what it offers. Mr. Green was too intelligent to claim that this was a cure for the problem of unemployment, a problem that, as your committee well had opportunity to observe yesterday, completely baffles trained economists who disagreed radically before you as to the proper method of approach.

One of them suggested, as the majority of the advocates of this legislation seem to suggest, that employers of labor should be encouraged to undertake to keep up part-time employment, at least of all their employees, and another suggested that results would be better in the long run practically by firing a considerable number of employees and paying full wages to the balance so as to guarantee them a job and the power of spending their money.

Then there is the question which we are really not here to debate, as to the efficacy of this bill to provide for taking up the slack in hard times by spending more Government money on Government work, which may or may not afford a remedy to the situation.

There is no constitutional objection to doing that. It may be wise and in some instances of course undoubtedly would be wise. Whether it can be carried out to a full, effective degree is of course a problem.

You can not appropriate say $250,000 to put up a post office somewhere, put up the walls when times are hard, and then if times improve, let the roof and the interior wait until times get hard again. You can not do things just in that way.

But, to a certain extent, no doubt, public works could be pushed in times of relative scarcity of other occupation, to some benefit. But it is very doubtful whether even by the spending of millions that the Federal Government is able and expected to spend in this matter, you would be supplying more than a palliative.

The conditions producing unemployment, as I say, have baffled economists and thinkers. It is partly attributable to technological unemployment, to the increase in the use of labor-saving machinery, throwing people out of jobs. Others attribute it to the decline in foreign trade, which has afforded a market for our exportable surplus. That may be due to a variety of reasons. It has occurred to me lately that possibly the fact that the most thickly populated sections of the globe, China and India, are in a state of grave internal disorder, which undoubtedly reduces the purchasing power of millions upon millions of human beings and must affect world markets and world conditions, has something to do with that. We can not undertake to cure any of those things by the enactment of such legislation as this, nor, I respectfully submit, would this plan of coordinating and doing more than coordinating, concentrating into one bureau in Washington the placement service of the United States, do it. I take it that is the real purpose of this bill. If that was a desirable step, from the economic point of view in solving this problem, I ask you to consider whether organized industry is not sufficiently integrated to-day in this country to have resulted in a substantial movement toward that end. It seems to me that the vast organizations in the field of the automotive industry, railroads, textiles, and all lines of employment, would have voluntarily established some sort of a central labor exchange, if they thought or had any reason to suppose that that would result in giving more men employment. It certainly and manifestly is to the advantage of the manufacturing interests of this country to have as many men employed and able to purchase goods as possible.

Therefore, I venture to say that neither Mr. Green nor Senator Wagner nor any of the other proponents of this bill, however sincerely they may favor doing what Mr. Green called making a gesture towards the solution of this grave and increasingly serious problem, however sincere they are in trying to show that their heart is in the right place—I believe them too intelligent to really believe that the enactment of this bill is really going to do any appreciable good.

Of the witnesses who talked to you yesterday, I was really most impressed by the lady, Miss Perkins of New York, who made a very illuminating talk, to my mind. She described how the labor exchange, or whatever it is called, of the New York State Labor Department, operates and how it helped men out of work in Troy or Schenectady to find a job in Buffalo, if there was one, and so forth. Her idea was that a national organization that would enable her to do more than that, to take up an unemployed man in Boston or Fall River and move him to New York State, would be very much of a gain. Well, there is no reason why that should not be done.

It seems to me that one of these companion measures introduced by the same Senator but I believe now before another committee

and reported favorably by that committee—the Labor Committee—that is, the measure providing for the collection of unemployment statistics and the dissemination of information, and so forth, could be used, possibly with some slight amendment, to produce that voluntary cooperation among State and private employment agencies that would be desirable and would improve their efficiency.

I see no reason why that should not be done. Nobody objects to the Federal Government producing and disseminating all the information with reference to commerce, trade, manufactures in this country that it is possible to get. Information of facts never does anybody any harm and certainly there is no constitutional or other objection to the Federal Government doing that and with the facts before them, the solution of the particular problems can be taken up by the local bodies concerned.

But this bill provides that—and I think it is a grave feature of this bill that has not been brought to your attention; I am reading from the third section——

Mr. MONTAGUE. What bill?

Mr. CADWALADER. S. 3060; at line 23, on page 2.

The bureau shall also assist in coordinating the public employment offices throughout the country by furnishing and publishing information as to opportunities for employment, * * *—

so far so good—

by maintaining a system for clearing labor between the several States, by establishing and maintaining uniform standards, policies, and procedure—

note particularly that "uniform standards, policies and procedure"—

and by aiding in the transportation of workers to such places as may be deemed necessary, for the purpose of obtaining employment.

Mr. TUCKER. Are you reading from page 2?

Mr. CADWALADER. Pages 2 and 3 of S. 3060. And then comes the pious wish.

It is hereby declared to be the policy of the Congress that the service authorized by this act shall be impartial, neutral in labor disputes, and free from political influence.

It might as well have said that it was then the policy of Congress that this service should be thoroughly well administered. I should take it for granted that all those things were in the policy of Congress. I do not see that those words add much to the bill.

But consider this: The director of the United States Employment Service created by this bill is to have a dictatorial power over the State employment agencies, because he can simply say, "You do not get this money unless you do the thing the way I want it done." That is the whole purpose and the main objection to this bill.

Now, suppose there is a very grave state of unemployment in the textile industries, we will say, of Massachusetts; as we know there is. At the same time there is a fair condition of industry in the textile interests of the Carolinas. Would it be competent for this director to establish a uniform policy of moving out of work operatives from Fall River to Spartanburg? There they would come in competition with the native labor. Would that please the people of Spartanburg? Would not the United States Government be getting itself into pretty hot water if it undertook to pursue any such uniform policy?

And yet, what is the purpose of these words, "Uniform standards and policies" unless it is to mean not necessarily that thing but something of the same kind?

Now, if the State employment agencies find that there is a shortage of work, as Miss Perkins might say, in Buffalo or Syracuse, N. Y., and that there are plenty of technical workers in that particular trade to be had across the line in Connecticut or in New Jersey, and that she gets the information of that in due time from some Federal fact-finding agency, there is nothing to prevent her, and it would be her duty, I take it, to encourage the industries of her own State by telling them where they could apply for the hands that they needed, and so on. If she had a condition of unemployment and they were crying for workers somewhere else and she knew it, she could say, "We can not do anything for you in New York; but here, go over into Jersey, or into Massachusetts, and you can get employment."

That is all that an employment agency really can do, and that is all that the Federal Government should ever undertake to do in a matter of this kind.

Now, then, why do I say that? That brings us to the meat of the constitutional objection to this sort of legislation. It is the rooted desire of some people in this country to make one ironclad rule to govern a nation of 120,000,000, scattered over a continent; and it even includes Hawaii and Alaska or Porto Rico—I forget which—in this bill. You can not have local differences, according to that philosophy.

That was not the philosophy of the founders of our Constitution. It was not the philosophy of the American people until very recent times. I do not believe, with due respect, that it is the philosophy of the American people to-day. I think when they have a chance they show pretty plainly that they disagree with that sort of thing. It is the philosophy of a good many persons who come here to Washington in order to create on any pretext and for any reason an additional bureau and give rise to the employment of additional persons on the Government pay roll to carry out some particular scheme that may sound as if it would do some good.

They always come to you—and I notice they did yesterday, and every hearing that I have taken part for this organization, and I have taken part in a good many, some before your own committee, as the chairman and other members will well remember. To digress a moment, I think my first appearance before your committee was in opposition to the child labor amendment. I was with the insignificant minority apparently on that day. You may not remember my remarks, but you may probably remember the remarks of my very able friend, Mr. Rolls, of Baltimore, who made one of the most striking and impressive attacks on that sort of measure that I have ever heard. The Congress of the United States by a two-thirds vote submitted that measure, and all three presidential candidates indorsed it, and it looked as if it was going through without any doubt at all until 40 States out of 48 turned it down.

It does not sound to me as if the American people, the real American people, had departed quite so far as some of us seem to think from the standards of their fathers.

But I was going to say that these propagandists—and for the moment I include the distinguished Senator from New York, although I know he does not really belong to that breed—always come here complaining that they can not get State action for their reforms; that it is hopeless, and that is why they come to Congress.

I wonder if they ever stop to think of the reason why they can not get State action? When organizations come here to Washington for legislation the people are frequently unknown. They come from the ends of the country. You do not learn anything until you are told and then you elicit it with considerable difficulty, who they are, what their antecedents are, and you have to puzzle out for yourselves their motives.

When the people of a State go to their State capital they are not unknown. The legislators, or a large number of them, know all about them. They may know them personally. They know why they are coming. They know what they have got under their chest and also, if it is an important measure, they take some interest in considering how it is going to affect their people, the people in their county or in their ward, when they go back home, and they make it their business to find out, or the newspapers make it their business to spread that before the public. The whole thing is pretty thoroughly gone into and exposed. If it is a good thing, it is passed. In some cases a foolish thing and, in many cases, a foolish measure may get through in a certain State. But it does not come up in other States all at the same time, and in the course of a year or two it is demonstrated to anybody who cares to look that it is foolish, ineffective, or absurd, and consequently it is dropped and we do not hear of it again. It may be repealed or it may pass into the condition that Grover Cleveland called innocuous desuetude.

But they come here to Washington and ask you to enact for the first time something that they admit by their own showing they can not get through their own States for the reason that State legislatures, with full knowledge of the people behind it and the local conditions confronting them and of the precise merits or demerits of the bill, have good reason to turn down.

Of course, it is easier to deal with one body than it is with 48. That is the very reason why we should insist upon maintaining the fundamentals of the American Constitution.

What are those fundamentals? It is very easy to speak of them, but I believe that there is one thing that is definitely opposed to the fundamentals of our Constitution, and that is uniformity by compulsion. Uniformity in certain things as provided for by the United States Constitution are all right; such as a uniform bankruptcy law, a uniform procedure and method of naturalizing aliens, one or two things of that kind that by their very nature may or should be uniform in order to accomplish the results desired; but the fathers, the framers of that instrument, were far wiser than even our own distinguished generation in leaving a great flexibility in all other matters and providing specifically, as far as language could make it plain, that there was to be no uniformity in regard to local government in this country, but that the local responsibility for governing yourselves was left to the American citizen in his own community, where he lived and where he knew his neighbors and was known by them.

That is the reason that our organization opposes this measure. It is a measure to compel the adoption throughout these United States of a single rather hastily gotten up measure. I say rather hastily.

It has been, as the Representative here from Michigan brought out yesterday, and it is substantially the same measure that has come before Congress heretofore and was considered but not enacted. It is a measure that has never been tried. Nobody claims that it is the same kind of thing that has been tried in England or Germany, and if it has, that it has succeeded in those countries or that there is any particular definite benefit to be derived from it. In fact, Mr. Green was pressed to say what good this would do and all he could say was, in effect, that it was possibly a palliative, and that it might accomplish something.

One thing it will accomplish, and we know that. It will put this Congress again on record in favor of this 50-50 combination of seduction and compulsion on the States to do the will of the central authority in the United States, and I submit that if these gentlemen could prove to you by demonstration, by a mathematical demonstration, that this bill would cure the problem of unemployment in the United States and would give everybody a job, it would still be not a good argument in favor of scrapping the Constitution of the United States.

I say, referring to the speech of former President Coolidge that was just read to you by Mr. Emery, that the Constitution is more important than that; that a single emergency, however severe, does not justify its abolition; and, without a constitutional amendment, this sort of thing is practically an abolition or a destruction of the groundwork of the Constitution by substituting central authority, central responsibility, and central expenditure and taxation for the local self-government of our fathers that we have enjoyed up to the present time. If you do away with that, the Constitution is a shell; it is a form of words without meaning.

Therefore I respectfully submit our organization urges upon this committee not to enact this bill, not to recommend its enactment. As to the other bills, we have no constitutional objection. They do some good. Well and good. They are policies temporary in their nature which if they turn out to be unsatisfactory in performance may be retreated from, but, as appeared in the history of the maternity bill, comparatively unimportant as that may be in its broader aspects, it has introduced a principle directly at variance with the Constitution which is being copied in this and other measures and will continue to be copied unless the Congress or the people put their foot down and say, "No; we have sworn to support the Constitution, and until you show us a better Constitution we will stand by it."

Mr. McKeown. Do I understand you to say that even if the Congress believed that these measures would give every man in the United States a job, it should not be passed?

Mr. Cadwalader. Yes; I said that.

Mr. McKeown. You think it should not be passed even if it would do that?

Mr. Cadwalader. No, sir. I would not vote for an argument to abolish the United States Constitution even if it would give everybody a job. I think it would be better that some people remain temporarily out of employment until times get better, without scrapping the Constitution that has served us in good stead for nearly a hundred and forty years.

Mr. McKeown. You would rather save the Constitution and lose the country?

Mr. Cadwalader. No; I do not admit that it is losing the country. Of course, Mr. Representative, the Constitution is not anything sacred. It is not the word of God. I do not claim that it is. It is made for man and not man for the Constitution. I am fully with you there. But all I say is that, if you take a broad view of these things, a temporary emergency is no excuse for doing away with a settled institution that has proven its benefits in practice. Do you think that this country has not grown and become a model of government and of organization for the whole world by virtue of the Constitution? I do. I think the Constitution is what made it what it is.

Mr. McKeown. But you think the world is in a pretty bad shape now, with Soviet Russia in a stir, and all these other countries in a stir and 3,000,000 men out of employment in this country.

Mr. Cadwalader. I think the world is in a terribly bad shape; yes, sir; and I do not propose therefore that you should follow the example of Russia by establishing a central despotism or any thing of the kind.

Mr. LaGuardia. You understand, of course, that the Constitution must necessarily be construed in the light of the time in which we are living and the conditions under which we are living?

Mr. Cadwalader. Yes, sir. It is left flexible for that very reason. You gentlemen want to make it inflexible, want to make uniform rules administered from Washington and regulate everybody according to the will of some director appointed here, instead of letting the problem be handled in the States and in the communities where they arise by the people familiar with them.

Mr. LaGuardia. You understand likewise that economic and industrial conditions have changed since the framing of the Constitution?

Mr. Cadwalader. All the more reason for leaving it flexible.

Mr. LaGuardia. That is your answer to that.

Mr. Cadwalader. Yes, sir.

Mr. LaGuardia. You understand, of course, that when the Constitution was adopted labor was peculiarly a local question, but since we have had an economic unification of the country—whether we like it or not, it is here—do you not believe that constitutional limitations must necessarily be construed in the light of these changed conditions?

Mr. Cadwalader. Constitutional limitations, certainly; yes. But, Mr. Representative, there is no evidence before this committee or in existence, so far as I know, that labor must be told to go hither or thither; that we have reached the economic stage where a bureau in Washington should tell labor where to go or tell industry where to go to get labor, contrary to their own view of the situation and to their own needs.

Mr. LaGuardia. Coming from New England, as I understand you do——

Mr. Cadwalader. No; I do not. I come from Baltimore. If I did come from New England, I would not care to have Washington dictate to me how we should handle our labor problem.

Mr. LaGuardia. You know that owing to conditions in certain States that have not kept abreast of the times in providing for proper legislation, industries in enlightened States have had to meet unfair competition from industries in these other States?

Mr. CADWALADER. I do not know anything of that kind. I have heard those statements, but I have never lent much credence to them.

Mr. LAGUARDIA. Mr. Emery can tell you something about that.

The CHAIRMAN. If there are no further questions, that is all.

The CHAIRMAN. We will call Mr. Peckham.

Mr. PECKHAM. Mr. Chairman, if you please, Mrs. Cooke is here and a Mr. Winslow. They are prepared to speak on behalf of persons engaged in the employment service to-day. I shall only attempt to take up one or two points that Mr. Cadwalader and Mr. Emery did not cover in their statements, and if it pleases the committee, I should prefer to permit Miss Cooke and Mr. Winslow to precede me.

The CHAIRMAN. Very well.

STATEMENT OF MISS GRACE E. COOKE, REPRESENTING THE NATIONAL EMPLOYMENT BOARD, BOSTON, MASS.

The CHAIRMAN. We will hear Miss Cooke.

Mr. MICHENER. Whom do you represent, Miss Cooke?

Miss COOKE. The National Employment Board. I was going to state, Mr. Chairman, that I had prepared a brief and I believe pertinent statement, and I would respectfully ask that I may proceed without interruption, that the continuity of thought may not be broken. After that I shall be glad to answer any questions.

The CHAIRMAN. Very well. We have precedent for allowing a lady to go on uninterrupted.

Miss COOKE. Mr. Chairman, and gentlemen of the committee, I made that request thinking it would also save your time.

I am secretary of the National Employment Board, which is a national association of private employment agencies engaged in the negotiation of employment in the specialized fields of educational, technical, commercial, and general office personnel.

Affiliated with the board are State and local associations, but I am authorized simply to represent the national organization.

The board's standards of practice conform to the highest standards set and maintained by representative trade and professional associations, the subscribing and living up to which is a requirement for membership.

I recognize, and the group I represent recognizes, that there are abuses peculiar to the fee-charging agency, just as there are abuses peculiar to every business and profession. I can state with all sincereity that there is no business or profession more regulated to-day than the private employment agency.

We recognize the right of the State to regulate up to a certain point, and we would not have it otherwise. We do not believe, however, that it is within the province of the Federal Government to regulate our business.

The scope of power given to the Department of Labor in Senate bill 3060 is great enought to enable it to require the States to enact legislation compelling the fee-charging or private agency to clear through the national clearing system which is to be maintained by the United States Employment Service, a competitor of the fee-charging agency.

There is nothing stated in the bill as to what form the clearing system will take, but rather delegates to the Director General a blanket authority to promulgate rules and regulations, and to set up

whatever standards of whatever nature he may desire. True, they must be with approval of the Secretary of Labor.

As a representative of the employer and the employee, the fee-charging agency is naturally intrusted with matters of a confidential nature, privileged communications, I believe you gentlemen would term them. In fact, the private agency stands in the same relation to the employer and employee as the lawyer stands to his client.

The group I represent is at all times willing and glad to cooperate and to lend its support to any constructive movement which would tend to stabilize employment and to minimize unemployment, but from long experience, knows that the elements of time and duplication so enter into the matter of collecting, compiling and disseminating employment and unemployment statistics as not only to make their value practically nil, but because of their misleading character, dangerous.

To ask or require fee-charging agencies to report to the State agency—I use the term "State agency" as it is used in line 22 of the bill, on page 13—would aid Government competition with private enterprise and place the private agency under the prejudiced control of its Government competitor—a precedent inconsistent with American principles.

S. 3060 is, to say the least, subtle. I have met it before; I am thoroughly familiar with it, in its original state and the purpose back of the original draft. I venture to go further and state that it was the intention of the original drafters and of some, not all, of the proponents, that this bill should arbitrarily regulate fee-charging agencies. I call to your attention Senator Johnson's statement on page 49 of the transcript of the hearings before the Senate committee over which the Senator presided. Just prior to the Senator's statement, Miss Perkins, Labor Commissioner for the State of New York and whom you heard yesterday, was discussing private employment agencies, when the chairman said, "Do you regulate their charges," meaning does the State of New York regulate their charges, to which Miss Perkins replied:

> No; we have no supervision over them.
>
> The CHAIRMAN. That is what we are expecting to deal with in one of these bills.

We know that the Congress of the United States can enact no legislation which will fix, determine, or regulate an employment agency's fee. That was decided in May, 1928, by the Supreme Court of the United States. But if the Senator understands that the proponents are expecting to deal with the regulation of an employment agency's fees, in one of the bills, certainly it is within the province of Congress, or the province of the administrators of the law, I should say, to deal with other regulations. Where in the bill, I ask you, gentlemen, does it give the labor commissioner, the director general, or the agency that is to be set up by the State, authority to fix, determine, or regulate employment agency's fees?

When this bill was before the Senate committee, Miss Perkins testified that the amount of business done by the New York State employment agencies was infinitesimal as compared with that done by private agencies in that State. If this is true (and I do not question it), the fee-charging agency has a very definite social and economic value and is doing a constructive piece of work. To choke

off private initiative in the employment field is to remove one of the most effective mediums for helping the unemployed to find suitable employment.

Mr. Green stated yesterday that no one should be forced to pay for a job. I agree with Mr. Green. But no one is forced to pay an agency for services in locating and negotiating employment. There is hardly an industry of any size that does not maintain its own employment department where men and women may apply direct. Schools, colleges, Young Women Christian Association, Young Men's Christian Association, employer's associations, in great numbers, labor and fraternal organizations, maintain free employment bureaus and, in addition thereto, there are the State and municipal offices. The help wanted columns of the news and trade papers are effective mediums for locating employment. With all these avenues open, through which employment may be secured without cost, is there any reason why the unemployed should not be privileged to pay for employment services if they so elect?

Mr. Green criticized fee-charging agencies, because, as he stated, it served the employer to the disadvantage of the employee. He stated that private agencies, in filling the requirements of the employer, discriminated against the man and woman 45 years and over; that they directed the unemployed to employers who, in times of business depression, paid low wages and required long working hours. I wonder, Mr. Chairman and gentlemen of the committee, what the public employment offices would do in such instances? Would they refuse to serve the employer; would they pigeonhole the order and thereby perhaps hold up production, or would they use their best judgment and serve the employer and the employee for the best interests of all concerned?

The organization I represent takes no position in respect to the creating of a federal service on a permanent statutory basis, or for a trial period, or the expansion of State offices. We are not afraid of competition. But it does oppose being made a part of the clearing house plan or in any way coming under the jurisdiction of the Department of Labor, or the Director General of the United States Employment Service, and contend that S. 3060 indirectly includes fee-charging agencies.

If I heard a statement correctly put by one of the Congressmen on my left yesterday, it was to this effect, that the Labor Commissioner, or the head of the labor department for the State of West Virginia, had approved S. 3060. If that was the Congressman's statement, I would call to the attention of this committee the fact that the State of West Virginia must first change a law before it could accept S. 3060; for that State and several other Southern States have laws which go so far as to prohibit by a heavy tax the taking of labor from one county to another, to say nothing of from one State to another.

Lest my judgment savor of prejudice and thereby be of no value, I make no attempt to pass judgment on the practicability of a Federal clearing system; but I would, however, recommend for your consideration two very enlightening articles on the subject by Mr. Kenneth Colback, superintendent of the Philadelphia Employment Office which is maintained by the State of Pennsylvania. One article is entitled "Unemployment Statistics" and appears in the Saturday Evening Post of February 16, 1929. The other is an article entitled

"If Uncle Sam Turned Job Hunter," appearing in The Nation's Business in March, this year. There you have a man speaking from experience and without prejudice—the superintendent of one of the largest and most successful State employment agencies in this country. I believe, Mr. Chairman and gentlemen of the committee, you will find these articles a valuable contribution to your record. I shall be glad to leave them with you.

In as much as the policies and practices of the fee-charging agencies were severely criticized yesterday morning and that criticism will appear in the record, a permanent record, I ask the indulgence of your committee for the privilege of reading the Standards of Practice of the National Employment Board, in order that you may know what the outstanding representative free-charging agencies in this country stand for. May I read it into the record?

Mr. MICHENER. How extensive is it?

Miss COOKE. Two pages.

The CHAIRMAN. Well, they may be filed.

Mr. MICHENER. I would rather have them printed than read.

Miss COOKE. Very well.

The CHAIRMAN. Very well.

Miss COOKE. I will leave those two articles. It is discretionary with you, of course, whether they are printed, but you will find some real practical information contained therein.

The CHAIRMAN. They may be filed.

STANDARDS OF PRACTICE NATIONAL EMPLOYMENT BOARD

Whereas the National Employment Board is an organization operating for the mutual benefit of the fee-charging employment agencies, employers, and the employment-seeking public, and

Whereas this association through frank and lawful cooperation of its members is committed to remove from its field of endeavor such attendant evils and trade customs as are contrary to sound business principles and the highest standards of practice, and

Whereas experience has shown that standards of practice governing business relations are essential to the progress and development of every trade and profession, and

Whereas each vocation requires rules peculiarly adapted to itself: therefore be it

Resolved, That the members of this association accept the following standards of practice as fundamental to the best interests of the public, the employer, and the agency.

RELATIONS WITH EMPLOYERS

1. Candidates shall not be referred to employer clients without the prior authorization of the clients themselves.
2. Introductions to clients shall be withheld from all applicants who are found to be of questionable character.
3. Intimate facts relating to the business policy of clients which are imparted as aids to the intelligent handling of their requirements shall be preserved in strict confidence.
4. Service shall be withheld from employers who are known to abuse or exploit their employees or who fail to provide proper working conditions for them or who refuse to permit reasonable inquiry when necessary into their business solvency.
5. Dividing or sharing commissions with employer clients or with their representatives is illegal and unethical and is strictly forbidden. Candidates shall not be referred to employers who indicate their expectation of these indulgences.
6. Applicants shall not be solicited for other positions while they are still in the employ of clients with whom they have been placed.

RELATIONS WITH APPLICANTS

1. Applicants shall be introduced upon those openings only for which authority has been given by the employer to submit candidates.
2. Representations made to applicants concerning prospective positions, the character and probable length of the employment, hours, salary, etc., shall be scrupulously correct.
3. Systematic effort shall be made to ascertain that positions upon which applicants are submitted, are open at the time that they are referred.
4. Precaution shall be taken against referring any applicant to employers who engage in illegal, immoral or any questionable business practices.
5. A schedule of service charges shall be given to all applicants for their examination and acceptance before they are permitted to incur obligations for service.
6. Acceptance of gratuities from applicants who seek thereby to gain otherwise unmerited assistance or improper concealment of damaging facts in their past history, is strictly forbidden.

ADVERTISING

1. Position listings in the "Help Wanted" columns of newspapers or other mediums shall refer to bona fide openings available at the time that copy is given to these publications for insertion.
2. The use of "blind ads" to attract applicants is strictly forbidden.
3. No responses shall be made to "Help Wanted" ads inserted by employers in newspapers or other mediums except as they present the qualifications of specific candidates actually available for the particular openings described.
4. Abstracts of applicants' records that are presented to employers from time to time in a promotional effort to locate opportunities, shall in every instance represent candidates actually available.

SERVICE CHARGES AND COLLECTIONS

1. An applicant shall not be held obligated for a placement charge unless and until the applicant has clearly accepted a position offered him by an employer as a result of the agent's efforts in his behalf.
2. Reasonable adjustment shall be made of charges for service where the employment obtained by the applicant terminates within a reasonable period from circumstances over which the applicant has had no control.
3. Refunds of overpayment on adjusted accounts shall be in cash or in credit on the books at the option of the applicant.
4. Methods pursued in collecting accounts shall conform to the highest ethical standards used by reputable firms in other lines of business.

I hereby subscribe to the foregoing standards of practice recognizing in them sound business principles. I further subscribe to them as a requirement for holding membership in the National Employment Board and acknowledge the violation of any section thereof as cause for action by the board provided for under section 2, article 8 of the by-laws.

Miss COOKE. Now Mr. Chairman and gentlemen, I shall be glad to answer any questions.

Mr. TUCKER. You made a reference to a decision of the Supreme Court of 1928 and I did not catch the subject of the decision, or the reference.

Miss COOKE. I will give you the citation. You will find it in the brief of the Manufacturers Association. However, I will be very glad to give it to you. It is Ribnik *v.* McBride, (277 U. S. 354).

Mr. MICHENER. You suggested this proposed bill was subtle and its purpose—you sort of reflected on the purpose of the bill. You said the purpose was ulterior, in other words. Now just what do you think the purpose of the bill is, if it is not to help the employment situation?

Miss COOKE. The bill, as perhaps you know, originated in 1919.

Mr. MICHENER. Yes; we are familiar with that.

Miss COOKE. I would be glad to tell you, if I might, how it came about. When the bill was before the joint committee of the House and Senate, Secretary of Labor Wilson stated he believed the clause contained in the act establishing the Department of Labor was sufficient and broad enough to enable him to establish a Federal employment bureau in his department; but that when the appropriation was before Congress for consideration, a point of order was made that there was no authorization of law and that it must, therefore, go through the process of new legislation. Consequently, the only way to establish the service on a permanent statutory basis was through an act of Congress.

Mr. MICHENER. There is nothing subtle about that, or ulterior in its purpose.

Miss COOKE. Well, Mr. Congressman, I am able to go just as far in this matter as your committee desires me to go.

Mr. MICHENER. Well what do you mean by that? I have asked you a question; just go ahead and answer it.

Miss COOKE. Yes. To show you what is back of the movement, as far as private agencies go, when the original bill was before the joint committee of the House and the Senate there was no question that it included private employment agencies; that private employment agencies would be forced to clear through the clearing house section. In January, 1919, when the Kenyon resolution was before the joint committee, I had the very great privilege of meeting Mr. Gompers—sitting beside him in the committee room for several days and conversing with him. It is a matter of fact that labor, the Federation of Labor, have declared for the absolute elimination of private employment agencies. It is further a fact that the American Association of Public Employment Services, which later became the International Association of Public Employment Services, an organization made up of the State bureaus in this country, have, since 1914, declared for the elimination of the private agency. In 1914 a law was enacted in the State of Washington which forbade fee-charging agencies to charge the employee for services in negotiating employment. In other words, it wiped employment agencies in the State of Washington out of existence, and they——

Mr. MICHENER. Your real objection, then, is that this law will put out of commission the private agencies?

Miss COOKE. Absolutely.

Mr. MICHENER. Now, suppose, for instance, an employer in the State of Illinois is needing employees and notifies your employment agency, just what do you consider in regard to the qualifications of the employees.

Miss COOKE. I do not know that I understand you.

Mr. MICHENER. To make it very plain, take this question of trade unionism and suppose that was involved and you received a communication from an employer in the State of Illinois that he wanted 500 men to work and did not want anyone who belonged to a union; or, on the other hand, did not want anyone who did not belong to a union—does your organization respect the request of the employer?

Miss COOKE. The Agencies which I represent do not furnish skilled, unskilled or semiskilled labor.

Mr. MICHENER. In other words they do not furnish employees who belong to trade unions?

Miss COOKE. Yes, they do; because some of our railroad offices and other——

Mr. MICHENER. The reason I am asking these questions is because it is all new to me. I have not taken any position here and I want to understand if there is any fight here between the trade unions and the open shop folks. If there is, just let us be frank about it.

Miss COOKE. We take no stand in that matter; none of our members are what is termed strike-breaking agencies and, in fact, I do not believe there are many agencies in the country to-day that engage in that special kind of work, that is, fee-charging agencies. There are agencies set up and maintained for that special purpose.

Mr. MICHENER. And if this legislation became a law, it would then put out of commission any of these agencies to which you have referred?

Miss COOKE. It places in prejudiced hands blanket authority to make rules and regulation which would, in fact, be so arbitrary that we could not exist, with the possibility of elimination through direct legislation——

Mr. MICHENER. What would happen in a case like this: Suppose there were a coal field, for instance, in Illinois, highly organized and there was a coal field in West Virginia that was not organized and the conditions were such in the West that they needed more fuel, needed more men for the coal to be mined from the organized field, and they notified your employment bureau they needed 500 men in this mine and you had on your list 500 men from the nonunion mine in West Virginia, would you send the nonunion miners on to work with the union miners in Illinois?

Miss COOKE. Assuming that I conducted an agency or any of our members conducted an agency serving miners, if I assume that to be the case, I will answer your question. I would look into the matter pretty thoroughly, because I think it is generally understood, although I am not speaking with authority—a representative of the federation can best answer that question—I think it is generally understood that the men who come from one State would have pretty hard sledding to get a job in the other State, if the American Federation branch in that State did not see fit to let those men go to work. Now I want this to be kept in mind: The fee-charging agency charges the employee; it is consequently necessary to consider the employee's interest first. We can not effectively serve one without efficiently serving the other.

Mr. MICHENER. I appreciate that. I do not want to go into that, but throughout this hearing this thing has occurred to me: Here is a town, for instance, or a locality, where they specialize in a certain line of industry, manufacturing, for instance where they might use tool makers, highly skilled labor, the best paid labor in the country to-day. Now this might be an open-shop territory. In another part of the country, engaged in the same line of industry, that territory might be highly organized. Under existing conditions, it is impossible for the man who does not belong to the organization to be employed, where the organization controls, and possibly in some other cases vice versa. Now if we adopted this legislation and there was a shortage of labor in one locality and a surplusage in the other and the question of organized labor comes in, what is going to happen? Are we going to be able to make the law function and to transport this labor from where it is not needed to where it is needed; or are we going to be controlled by the other thing—the union?

Miss COOKE. You will be controlled, sir, by the union, if I understand it correctly. I am making a pretty broad statement, but I believe it is based on fact.

Mr. MICHENER. That is all.

Mr. SPARKS. Do you know how many people are engaged in the different employment agencies throughout the United States, in the handling of the same and their employees?

Miss COOKE. Now is the question——

Mr. SPARKS. In the private employment agency.

Miss COOKE. Is the question how many employment agencies are there in the United States?

Mr. SPARKS. No, madam; I did not intend it that way.

Miss COOKE. How many people are employed?

Mr. SPARKS. Are employed in those agencies?

Miss COOKE. I can not state for a certainty but I can give you approximate figures. There are 3,000 agencies of all classifications in the country, including teachers and unskilled labor. That is as nearly as we can determine it. I build my list twice a year. Of course, there is a turnover. Some of those offices employ 1, 2, and 3 people; other offices employ as many as 75 to 100.

Mr. SPARKS. Could you make any approximation of the number, then, that are employed in those agencies?

Miss COOKE. I could not; but I can furnish the figures to this committee inside of a week; if it would be of any value, I could give you the exact figures.

Mr. LAGUARDIA. Miss Cooke, you based most of your opposition to S. 3060?

Miss COOKE. Entirely.

Mr. LAGUARDIA. Yes—in the belief that it will cause competition between the Federal and State agency and the fee-charging agencies?

Miss COOKE. Not competition.

The CHAIRMAN. I think the lady means to convey the idea, if I get it rightly, that the passage of this bill, under the power of the man who controls the work for the Government, will wipe out the private agencies.

Mr. LAGUARDIA. Exactly.

The CHAIRMAN. That is the point.

Miss COOKE. Absolutely.

The CHAIRMAN. And take the employment away from them.

Mr. LAGUARDIA. You stated you represented mostly professional agencies?

Miss COOKE. Agencies serving men and women engaged in technical, educational, clerical, and like pursuits.

Mr. LAGUARDIA. Now, those are the agencies that are in your organization?

Miss COOKE. In the National Employment Board.

Mr. LAGUARDIA. You do not embrace agencies specializing in labor, unskilled labor, and semiskilled labor?

Miss COOKE. Not in the National Employment Board.

Mr. LAGUARDIA. Now, you expressed a fear as to the regulatory powers of this national bureau and the Federal commissioner and stated there was a great deal of confidential information. What is the general character of that confidential information?

Miss COOKE. Why, it is the employer's private business.

Mr. LAGUARDIA. Well would not the State and Federal agencies naturally have the same kind of information?

Miss COOKE. Absolutely.

Mr. LAGUARDIA. What would be the objection—the fear that any information which the agency may have concerning the employers would be turned over by reason of regulation?

Miss COOKE. Well, you have asked me a question, sir, if I would answer it—I will answer it. If you would like to know why the public offices have not been a success, I will tell you. It is just for the reason the employer dare not give them his confidential business, because the average public office, the superintendent of the public office, in a large majority of cases, has carried a union card. Now, gentlemen, I am getting in deeper than I wanted to; I am in a difficult position. I want to say this, that our organization recognizes the right of men and women to organize and we realize if there had not been some such organization as the American Federation of Labor we would probably have a system of servitude in this country, of which we might well be ashamed. I stand for the principle, but I can not always accept the policies and practices.

Mr. LAGUARDIA. Then from your answer—and if I am not correct I wish you would correct me—most of this confidential information concerning the employer refers to the affiliation of prospective employees with labor organizations, or is there any other information?

Miss COOKE. No. You should state—If I call up a fee-charging agency or a public office—if I am an employer and call a public agency or a private agency and ask them to send me an executive or a hod carrier, they are entitled to know all that I expect from that executive or hod carrier.

Mr. LAGUARDIA. Well what is the feature; what is it that the employer would feel free to communicate to the private fee-charging agency that he hesitates to communicate to the State or Federal agency? Can you tell us that?

Miss COOKE. Well I know of no private agency owned or operated by a member of organized labor.

Mr. LAGUARDIA. That is the real reason; it is the labor affiliations which is the greater part of this confidential information?

Miss COOKE. Of course, you are putting questions to me——

Mr. MONTAGUE. I can not hear what you say.

Miss COOKE. You are asking me to answer questions that I believe only the employers should be asked; but I have made a broad statement here and I am able to substantiate it.

Mr. LAGUARDIA. Miss Cooke, Mr. Emery, who represents the manufacturers, based his opposition primarily on constitutional grounds.

Miss COOKE. Yes.

Mr. LAGUARDIA. You, representing the national board of private employment agencies, state there are many reasons that would necessitate the private employment agencies, saying that there was a good deal of private, confidential, privileged information.

Miss COOKE. There is.

Mr. LAGUARDIA. You even compare it to the relation between a counsel and his client.

Miss COOKE. Absolutely.

Mr. LAGUARDIA. That he could not and should not be called upon to turn over to any Government agency?

Miss COOKE. Absolutely.

Mr. LAGUARDIA. I am simply following that up and asking you what the general character of that information may be.

Mr. CHRISTOPHERSON. Mr. Chairman, I just want to make the point of order that it is not just proper for the Congressman to ask the lady to disclose that information; if it is information that has been given to her confidentially by her clients, I do not believe it is proper to bring it out.

Mr. LAGUARDIA. My colleague from South Dakota misunderstands me. I am not asking this witness to tell this committee any information the A. B. Co. gave the X Agency; I would not ask that. I am asking generally the nature of this information which is so privileged, so confidential, that it would be dangerous to employ a State agency to receive.

Mr. CHRISTOPHERSON. Can she answer that question without going into details as to the information that has been given her?

Mr. LAGUARDIA. I do not want any details concerning anything; I want just to get the character of this information. For instance, if it is a case of counsel and client and he tells you he has entered into a contract which he believes may be in restraint of trade and gives you the details, we know that the general information is how far he can go in meeting competition. Now I am asking the same general information, what it is. I do not know what it is; if any one does, I would like to have it.

The CHAIRMAN. Well, do you think it is essential to our understanding of the legislation that is before us?

Mr. LAGUARDIA. That is the opposition that is made to it.

The CHAIRMAN. Her idea is that you are wiping out an industry and people who are employed in that industry, which is a lawful industry, and there are many people so engaged in it. Now how relevant that may be the committee can determine; but that is the only point I think she is making and that, in her relations, there are confidential communications. I can understand they might ask for the employment of a butler, or somebody in a private capacity, and get an answer that he is all right, a good man, if you can keep him away from drink, or some other influences. Now those communications are confidential.

Mr. LAGUARDIA. Is there any other information other than the personal individual habits and characteristics of the particular person being employed that is of a confidential nature?

The CHAIRMAN. Yes; they may relate to the affiliation, to what societies, or organizations they are in. I do not think those matters are relevant.

Mr. LAGUARDIA. Is that the answer, Miss Cooke; is the Chairman's answer your answer?

Miss COOKE. Why, there is all the information which the employer cares to give you.

Mr. LAGUARDIA. Which he will give you and which he will not give the Federal or State agency?

Miss COOKE. You have my personal opinion on that. I am not speaking for the National Employment Board on that and again I say, Mr. Chairman and gentlemen of the committee, that no member of

the National Employment Board serves men and women engaged in unskilled or semiskilled trades.

Mr. LaGuardia. I am not interested in that.

Miss Cooke. But when you think of organized labor and we think of the masses that make up that organization, I think we are too prone to think of the skilled worker; we give little or no thought to the successful attempt on the part of labor to organize the executives—not executives, because it does not, but the bookkeeper, the stenographers, the teachers. Mr. Green made a statement yesterday which I have previously referred to, in substance, that no man or woman should pay for a job. I go further: No man or woman should be forced to pay for the privelege of working after he has once found a job. We have the employee to consider just as well as the employer; we have the employee on one side; we have the employer on the other side.

Mr. Hammer. What other States besides West Virginia, if you know, have legislation of the kind you referred to a while ago?

Miss Cooke. There are six or seven.

Mr. Hammer. Well just what are the provisions, in substance, of the West Virginia legislation?

Miss Cooke. In substance, it forbids the taking of labor from one county to the other, without paying a high tax.

Mr. Hammer. It is a license upon the solicitors of labor, I take it?

Miss Cooke. Contractors; employers fall within that group.

Mr. Hammer. It does not make the laborer amenable?

Miss Cooke. No.

Mr. Hammer. He is not required to be licensed.

Miss Cooke. No.

Mr. Hammer. But the license is of the labor agents, as we call them?

Miss Cooke. Not the labor agents alone but the employers.

Mr. Hammer. Oh, yes; any solicitor. Well what other States have such legislation now?

Miss Cooke. Well there are six or seven States.

Mr. Hammer. Do you know any of them?

Miss Cooke. I can look them up.

Mr. Hammer. It is not important enough for that.

Miss Cooke. I think they are the Southern States; they are all Southern States.

Mr. Hammer. As between counties?

Miss Cooke. Yes.

Mr. Hammer. You do not remember any Southern State that has such legislation?

Miss Cooke. I beg your pardon?

Mr. Hammer. You do not remember one of them; you can not name one of them?

Miss Cooke. When I gave testimony before the committee in 1919, I named them.

Mr. Hammer. Well the Southern States legislation is more directly in line than it was a few years ago. They have abandoned it now, as unconsittutional.

Miss Cooke. The statutes are still on the books and I think North Carolina—I do not want to be quoted in this matter, but is seems to me——

Mr. Hammer. That is my State. It never had such a law. It would not have the ghost of a chance of getting through there. [Laughter.]

Miss Cooke. I can not agree with you.

Mr. Hammer. They tried to impose a license fee to keep them from taking the colored people north, but the Constitution interfered with them in that respect. But I do not know of any Southern State that has tried to interfere with their going from one county to another. It may be. South Carolina is suggested as one. The Southern States objected very strenuously to their taking the negroes north and tried to enact legislation, but that is past.

Miss Cooke. Pardon me, Congressman; there is a State Supreme Court decision on that question. I think it came up a matter of 12 or 13 years ago, but the law stands and the law stands in all of those States.

Mr. Christopherson. Mr. Chairman, those States statutes would not have any bearing on this legislation, anyway.

Miss Cooke. Well those States would not cooperate in this clearing system. My reason for bringing it up was because of the statement——

Mr. Hammer. You brought it out as an argument against the bill.

Miss Cooke. No.

The Chairman. It was on cross-examination in reply to a question that you brought that out.

Miss Cooke. Certainly——

The Chairman. I suppose the reason was—I do not know—to prevent one employer from stealing labor from another.

Mr. Hammer. No; it is just a license tax. They call it stealing, but it is really a system of peonage.

Mr. Jonas. Mr. Chairman, the Congressman mentions South Carolina, about which I happen to know. I represented a dozen or so farmers in my State that went down in South Carolina to bring labor back to North Carolina and they all got indicted and got in jail down there and I had a pretty hard time to get them out. [Laughter.]

The Chairman. That is stealing labor from one State to another.

STATEMENT OF FRED J. WINSLOW, CHICAGO, ILL., REPRESENTING THE ILLINOIS EMPLOYMENT BOARD

Mr. Winslow. My name is Fred J. Winslow, from Chicago. I represent the Illinois Employment Board. If I may make a statement, I should appreciate the privilege of doing so without interruption.

Mr. Michener. Is your organization a State organization, or is that a trade name taken by a private agency?

Mr. Winslow. It is comprised of private employment agencies engaged in the business of placing men and women. It is not a public office.

The Chairman. And you appear in opposition to one of these bills or all of them?

Mr. Winslow. In opposition ot S. 3060, and S. 3060 only.

The Chairman. Very well; you may proceed.

Mr. WINSLOW. This bill undertakes to create a certain force to do a certain work. The work proposed is already being carried out as fully as the number of positions permit, and even the proponents do not claim the bill can create additional positions. What, then, is the reason for asking for millions of public funds to duplicate work already being done? It is to crowd out of the picture those already doing this work. But why crowd them out? Because, as now organized, the private employment agencies who do the placement work provide the means of individual bargaining. Individual bargaining stands clearly in the path of collective bargaining of organized minorities who have repeatedly declared for the elimination of private employment agencies, and this bill, we believe, to be one of their attempts to put down the principle of freedom of contract and individual bargaining.

Government is to govern and was never intended to enter into competition with its own citizens. Furthermore, a national system has no justification in supplanting local and State activities. Uniform regulations are impossible to fit all local conditions and the power and authority granted in the bill is the greatest ever given any body or individual in the history of a free people. The States have not asked for such interference, but the bill proposes to force the same upon them. The inclusion of private employment agencies without seeking full details is un-American.

In conclusion, is it not well to consider the result of sixteen millions of dollars in terms that mean officeholders responsible to some one and these officeholders passing out free jobs? It is the foundation of the biggest machine that has ever been and the easy possibility of a condition that means a change in our entire form of government.

That is all I have to say.

Mr. TUCKER. What do you mean by $16,000,000?

Mr. WINSLOW. $4,000,000 a year appropriatd by the bill.

The CHAIRMAN. He means the appropriation provided for in the bill.

Mr. WINSLOW. Thank you, sir.

Mr. LAGUARDIA. Then your primary objection is that it may interfere with private bargaining as against collective bargaining?

Mr. WINSLOW. Yes, sir.

The CHAIRMAN. Now we will call Mr. Frank L. Peckham.

STATEMENT OF FRANK L. PECKHAM

Mr. PECKHAM. If the committee pleases, I have listened very attentively to Mr. Emery's argument against the bill and to Mr. Cadwalader's, and shall therefore avoid any duplication of anything they have said, being in hearty accord with the legal arguments against the bill. I feel I might call attention to the fact that most proponents of measures of this kind are quite willing to brush aside any constitutional objections and to refer to them as cold legal arguments, and to remind those proponents that the Constitution we are here to defend has served them in good stead many a time and will serve them in good stead in the future, and that to scrap the Constitution to relieve a temporary situation is going to result in a greater evil, that would more than offset any good that this legislation could do. And, of course, I direct my statements to Senate bill 3060.

One or two of the witnesses that have appeared before the committee quoted from the decision of the Supreme Court in Massachusetts *v.* Mellon, in support of their statement that the Supreme Court had held the maternity act unconstitutional. I merely wish to clear up the question that they have raised about that. The court specifically declined to pass upon or discuss the constitutionality of that act. The court said, further:

> We have no power per se to review and annul acts of Congress on the ground that they are unconstitutional. That question may be considered only when the justification for some direct injury suffered or threatened, presenting a justiciable issue, is made to rest upon such an act.

The portions of that opinion that have been presented to your committee in support of the act as constitutional were those parts of the opinion wherein the court set out to explain that the plaintiffs in these two suits had not suffered the sort of direct injury that the court said must be brought before them before a justiciable issue could be presented.

Reference has been made, as usual, to the general-welfare clause of the Constitution and, in response to the suggestions that the so-called general-welfare clause of the Constitution grants to Congress authority to legislate upon matters not directly committed to Federal control under the Constitution, and that there are fields beyond those embraced within the limited powers delegated to the Federal Government in which it is appropriate the Congress should legislate for what it considers the general welfare of the country, I wish to call the committee's attention to the following pronouncement of the Supreme Court of the United States, covering the period from the early days of the Republic and coming down to the present time and, if the committee please, I have excerpts from these opinions which I would like to submit. I would like to state the titles of the cases and the dates of the decisions and ask leave to include in the record brief quotations from each of these decisions.

The CHAIRMAN. Without reading them?

Mr. PECKHAM. Without reading them.

The CHAIRMAN. Well, that is your privilege; you can exercise that.

Mr. PECKHAM. And in that connection I cite the case of New York *v.* Miln (11 Pet. 102, 139), decided in 1837; In re Raher (140 U. S. 545), decided in 1890; Kansas *v.* Colorado (206 U. S. 46), decided in 1906.

Mr. TUCKER. That is Judge Brewer's opinion?

Mr. PECKHAM. Yes, sir.

Hammer *v.* Dagenhart (247 U. S. 251), decided in 1918.

I would like to direct attention to the fact that in the Dagenhart case the dissenting opinion was not based upon any recognition of the authority of the Congress to legislate in matters of local concern for the general welfare but, on the contrary, was predicated upon the belief of the minority of the court that the power to regulate commerce between the States included the power to prohibit the transportation in interstate commerce of articles that Congress deemed should be

prohibited from such commerce. In fact, at the outset of his dissenting opinion, Mr. Justice Holmes said:

> The objection urged against the power is that the States have exclusive control over their methods of production and that Congress can not meddle with them, and taking the proposition in the sense of direct intermeddling I agree to it and suppose that no one denies it.

The next case is the case of Bailey *v.* Drexel Furniture Company, (259 U. S., 20), decided in 1922. That is the child labor tax case.

A review of the decisions of the Supreme Court will reveal that, instead of recognizing any authority in the Congress to invade by legislation fields not included within the specific powers delegated to the Federal Government by the terms of the Constitution, the Court has frowned upon and thwarted efforts of Congress to stretch those specific powers to enable it to accomplish objects seemingly for the general good or general welfare.

Reverting for a moment to Chief Justice Taft's opinion in the child labor tax case (Bailey *v.* Drexel Company), I would point out that while the attempt through the taxing power to control local affairs has been curbed, Congress has devised and put into operation a scheme whereby it uses the proceeds of the taxing power to purchase from the States a right on the part of the Federal Government to intermeddle in the purely local affairs of the States, affairs over which and as to which the States' authority and responsibility are exclusive, and that scheme is, of course, the so-called 50-50 Federal-aid method.

Now, if the committee please, the only theory upon which the proponents of this sort of legislation can come to Congress and insist that it be enacted into the Federal statutes, is this: The theory that the Federal Government must meddle in every phase of local and community life must proceed upon the theory that the States are unable and unwilling to meet their own problems from poverty of riches, intelligence, and moral resources. And I submit to you gentlemen representing the various States of the Union that there is no State so degraded that it has not the financial, moral, and intellectual resources sufficient to meet all the reasonable needs of its people, and I challenge any Member of Congress to rise in his place and to admit that his State is a so-called backward State, unable, unwilling, to meet the needs of its people. And unless States are unwilling and unable to meet the needs of their peoples, there is no excuse for even considering injecting the Federal Government into the regulation of their local affairs.

Mr. MONTAGUE. May I ask you one question?

Mr. PECKHAM. Yes, sir.

Mr. MONTAGUE. Suppose a State is unwilling to do it; what authority has the National Government?

Mr. PECKHAM. The Federal Government has no authority whatever, even though a State is unwilling to do it.

Mr. MONTAGUE. Does not the right to do or not to do belong absolutely to each State government?

Mr. PECKHAM. Absolutely, sir.

Mr. MONTAGUE. And assuming that the State is absolutely within its powers.

Mr. PECKHAM. Yes. But I am not willing to assume, as the proponents of this sort of legislation must be willing to assume, that there is any State of this Union that is in so degraded a condition

that it is unwilling and unable to cope with the problems of local self government.

Allusion was made yesterday, apparently with a view of bolstering up the idea that we need a Federal employment service, to the Federal employment agency that existed during the World War. That was purely a war measure within the province of the Federal Government so long and only so long as the Federal Government was engaged in a war and needed that and other agencies to aid in the prosecution of that war. That agency was successful because at that time there were many more jobs than there were men to fill them, and the problem at that time was to find employees to fill these vacant positions; not the situation we have to-day, where we have got to put employees in situations that do not exist. And the fact that it was successful during the war is no argument for the continuation in these days of peace of what was properly and legitimately a war activity. And in reverting to the suggestion about answering these unemployed with cold legal arguments, I will say that these men are not sitting on park benches because of cold legal arguments; they are sitting on park benches because there are no jobs, and it has not been suggested by anybody that S. 3060 will create a single job, except for the group of bureaucrats to be centered at Washington to control the activities of State agencies throughout the country and possibly to throw out of employment those persons who already are engaged in the conduct of private employment agencies.

It may be in line with the great economic theory that the only way to solve the employment problem is to fire a certain percentage of those that are now employed, as was suggested here yesterday, and possibly by firing all the employees eventually of those private employment agencies they will create a demand for new commodities that will give employment to those full-time employees that are retained. I mean that is as nearly as I can follow the theory that was suggested to the committee yesterday. But if the States choose to put private employment agencies out of existence and if the States have that power, that is a matter for the State legislatures and the people of those States to consider, and it is not a policy that should be dictated by a bureaucratic director sitting in the Department of Labor in Washington, attempting to lay down uniform rules and regulations that would govern sheep herders in Wyoming and cowboys in Nevada and miners in California. And yet we hear this cry for uniformity. I think, if I might suggest it on the question of uniformity, that possibly this present day situation is largely aggravated by the fact that most of the people in the United States have uniformly been engaged in speculation and gambling for the past several years.

Another suggestion that comes as a basis for this sort of legislation is the necessity of stimulating the States to do something, and I want to call the attention of the committee to this fact that, like all other artificial stimulation, it creates a disease worse than that which is sought to be cured. In the maternity act, in the vocational rehabilitation and vocational education acts, what do we find? All of those acts were put onto the statute books and Federal Government dug into the pockets of the taxpayers of the country and went into a 50-50 game to stimulate the States, and every year we have representatives of the State agencies, that are helping in their communities to spend the Federal money, coming back here to Washington and saying "We can not carry on unless you give us more stimulation."

They suffer from the same disease that a drug addict suffers from; they become the beneficiaries of stimulation and, if you once remove the stimulation, they cease to exist; they can not go on. And it is just the same thing in this, as Mr. Green properly described it—a gesture. The difficulty with gestures is this, that gestures from Washington result as a rule in the laying down all over the country of those who are engaged in trying to solve a problem and waiting for the solution to come from Washington. And while it is not a constitutional question but rather an economic one—and I can not speak as an economist, but I can speak as one who has gained a modicum of common sense through his own experience— this gesture from Washington would probably do more to delay the solution of this problem of unemployment than anything else.

The other two measures are constructive; one proposes to plan for a sensible, orderly expenditure of Federal funds in such operations as the Federal Government may properly carry on; and the other proposes to collect and disseminate information, which is properly a Federal function. But this bill is violative of the spirit of the Constitution; it is violative of the genius of the American Government; and I warn those people who propose to violate the Constitution on this score that they will suffer the evil consequences, because, eventually, as we amend the Constitution by constant violation, those who now so glibly wipe aside the constitutional argument may have occasion some day to regret that some other constitutional provision on which they rely to support their rights has also gradually become amended and eliminated through violation.

There is another feature to this and that is the strange coincidence that a great deal of the support of this measure comes from a State which is holding up the Eighteenth amendment to the Constitution as a great violation of the principles of American Government of local determination, and they propose by this measure to invite the Federal Government to come in and regulate a thing which by the Constitution itself is primarily, solely and exclusively, a State function.

I thank you.

In New York *v.* Miln (11 Pet. 102, 139 (1837)) the court said:

"We choose rather to plant ourselves on what we consider impregnable positions They are these: That a State has the same undeniable and unlimited jurisdiction over all persons and things, within its territorial limits, as any foreign nation; where that jurisdiction is not surrendered or restrained by the Constitution of the United States. That, by virtue of this, it is not only the right but the bounden and solemn duty of a State to advance the safety, happiness, and prosperity of its people and to provide for its general welfare by any and every act of legislation which it may deem to be conducive to these ends, where the power over the particular subject or the manner of its exercise is not surrendered or restrained in the manner just stated. That all those powers which relate to merely municipal legislation, or what may perhaps more properly be called internal police, are not thus surrendered or restrained; and that consequently in relation to these the authority of a State is complete, unqualified, and exclusive."

In re Raher (140 U. S. 545,554 (1890)) the court said:

"The power of the State to impose restraints and burdens upon persons and property in conservation and promotion of the public health, good order, and prosperity is a power originally and always belonging to the States, not surrendered by them to the general government nor directly restrained by the Constitution of the United States, and essentially exclusive."

In Kansas *v.* Colorado (206 U. S. 46, 89, 90 (1906), the court said:

"The proposition that there are legislative powers affecting the Nation as a whole, which belong to although not expressed in the grant of powers, is in direct conflict with the doctrine that this is a Government of enumerated powers.

That this is such a Government clearly appears from the Constitution, independently of the amendments, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinthings. This natural construction of the original body of the Constitution to made absolutely certain by the tenth amendment. This amendment, which was seemingly adopted with prescience of just such contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act."

In Hammer *v.* Dagenhart (247 U. S. 251 (1918)) the court said:

"It is further contended that the authority of Congress may be exerted to control interstate commerce in the shipment of child-made goods because of the effect of the circulation of such goods in other States where the evil of this class of labor has been recognized by local legislation, and the right to thus employ child labor has been more rigorously restrained than in the State of production. * * *

"That there should be limitations upon the right to employ children in mines and factories in the interest of their own and the public welfare all will admit. That such employment is generally deemed to require regulation is shown by the fact that the brief of counsel states that every State in the Union has a law upon the subject limiting the right to thus employ children. * * *

"It may be desirable that such laws be uniform, but our Federal Government is one of enumerated powers; 'this principle,' declared Chief Justice Marshall in McCulloch *v.* Maryland (4 Wheat. 316), 'is universally admitted.'

* * * * * * *

"In interpreting the Constitution it must never be forgotten that the Nation is made up of States to which are entrusted the powers of local government. And to them and to the people the powers not expressly delegated to the National Government are reserved. * * *

"In our view the necessary effect of this act is, by means of a prohibition against the movement in interstate commerce of ordinary commercial commodities to regulate the hours of labor of children in factories and mines within the States, a purely State authority. Thus the act in a twofold sense is repugnant to the Constitution. It not only transcends the authority delegated to Congress over commerce but also exerts a power as to a purely local matter to which the Federal authority does not extend. The far-reaching result of upholding the act can not be more plainly indicated than by pointing out that if Congress can thus regulate matters intrusted to local authority by prohibition of the movement of commodities in interstate commerce, all freedom of commerce will be at an end, and the power of the States over local matters may be eliminated, and thus our system of government be practically destroyed."

In Baily *v.* Drexel Furniture Co. (259 U. S. 20 (1922)), the court said:

"It is the high duty and function of this court in cases regularly brought to its bar to decline to recognize or enforce seeming laws of Congress, dealing with subjects not intrusted to Congress but left or committed by the supreme law of the land to the control of the States. We can not avoid the duty, even though it requires us to refuse to give effect to legislation designed to promote the highest good. The good sought in unconstitutional legislation is an isidious feature, because it leads citizens and legislators of good purpose to promote it, without thought of the serious breach it will make in the ark of our covenant or the harm which will come from breaking down recognized standards. In the maintenance of local self-government, on the one hand, and the national power, on the other, our country has been able to endure and prosper for near a century and a half.

"* * * Grant the validity of this law, and all that Congress would used to do, hereafter, in seeking to take over to its control any one of the great number of subjects of public interest, jurisdiction of which the States have never parted with and which are reserved to them by the tenth amendment, would be to enact a detailed measure of complete regulation of the subject and enforce it by a so-called tax upon departures from it. To give such magic to the word 'tax' would be to break down all constitutional limitation of the powers of Congress and completely wipe out the sovereignty of the States."

The CHAIRMAN. I believe those are all the persons opposing the measure who desire to be heard of whom we have any knowledge. I understood, Senator, you wanted to say something in rebuttal.

Senator WAGNER, Congressman Mead is here. He wanted to say something; just a few words.

The CHAIRMAN. I do not think we will take up any other person until after recess. How long will you take?

Mr. MEAD. Just about five minutes, or less.

Mr. MICHENER. Does Senator Wagner want some time?

Senator WAGNER. Yes; I would like a few minutes.

Mr. MICHENER. How much?

Senator WAGNER. Not very long. I did not propose to make a speech.

Mr. MICHNER. Do you mean a speech like we make here, or one like they make in the Senate?

Senator WAGNER. No; I won't make the kind I make in the Senate; I have just a few observations, that is all; but I do not want to keep you from lunch. I will come back after lunch.

The CHAIRMAN. Very well, then; we will hear from Mr. Mead and Senator Wagner, and that will close the hearings before this committee, and the committee will meet in executive session next Wednesday.

Mr. LA GUARDIA. Mr. Chairman, can not we meet before next Wednesday?

Mr. HAMMER. Won't we be adjourning about then?

Mr. LA GUARDIA. Yes.

The CHAIRMAN. I can not say that we will, but there is one thing to which I can not aceede, and that is that no matter how good the legislation may be, no matter how desirable we may wish to have it, I will not assent to a pressure, hysterical pressure, to pass the legislation without giving it due and fair consideration.

STATEMENT OF JAMES M. MEAD, OF NEW YORK

Mr. MEAD. Mr. Chairman and members of the Judiciary Committee. I desire to bring to the attention of the Committee as forcibly as possible a matter which in my judgment is the most important problem of government. No problem considered by Congress in this session approaches in importance the problem presented by the vast and ever increasing number of unemployed workers. The problems of international peace, prohibition, naval disarmament, the tariff, Muscle Shoals, and other matters are of far less value and importance than the consideration and solution of this grave question. The Nation's progress, prosperity, security and success are dependent upon the effectiveness and promptness with which we settle this matter. No member of the House can give it the time and consideration it merits but it is the duty of every member of Congress recognizing the capital importance of this great question to put forth his best effort to right the evil and unbalanced condition in which the Nation finds itself to-day.

Individual business facing the keen competition of the day will not solve the problem of unemployment. Industry in America is engaged in a terrific drive with its competitors with increased productivity and reduced cost as its goal. The task is therefore one for the Government to solve and it particularly recommends itself to the Federal Government for its is our duty to consider the problems that are nation-wide in scope and that affect the very lives, rights, and happiness of our people. In the past during periods of widespread unemployment such as the country is in to-day Congress failed in its duty with a result that this recent period of hard times struck the country with very serious effects bringing in its wake great suffering, poverty and want. Truly last winter can be termed "America's winter of want." Therefore our responsibility to act and to act at once is so pressing and urgent that no Member of Congress can fail to recognize his duty and to perform it without delay. Unless we take action within the next two or three weeks, at which time I am informed this session of Congress will have taken its place in history, the United States will face another winter of misery, suffering, poverty, and want which may exceed the unhappy winter just passed in its number of unemployed.

Many bills have been introduced both in the House and in the Senate bearing upon this all engrossing subject but the most important of all of the bills of this nature, the bills that provide the first step toward the ultimate solution of the greater problem, are those sponsored by the junior senator from the State of New York which only recently received the approval of the Senate. One of these measures authorizes the Bureau of Labor Statistics to gather and publish at monthly intervals accurate and comprehensive employment figures which would serve as a national barometer and enable the authorities to deal more intelligently with the question. The second bill provides for long range planning of public works, authorizing a maximum expenditure of $150,000,000 a year for that purpose and by its provisions periods of depression would be anticipated and the public works initiated in the very beginning of times of unemployment. The third bill provides for a nation-wide free employment service which would be operated in cooperation with the States. It would bring the idle man and the job together in a most effective and practical method.

The three measures mentioned are all of fundamental importance in any intelligent and constructive effort looking toward the ultimate solution of the unemployment problem. The adoption of these bills will enable the Government to intelligently apply its power and resources to the alleviation of this serious evil. They have been recommended by the leading newspapers and magazines of the country, by economists and authorities on labor legislation, by committees of Congress and commissions appointed by the President of the United States. The New York Tribune of May 3 last published an editorial from which I quote the following paragraph:

> Obviously, what the Government can do in this sphere is limited. But to the extent of its powers it should be permitted to function effectively. And to this end, it seems to us, every one of the Wagner bills should be enacted into law. Moreover, now is the time to put them through before the situation is sufficiently eased to allow Congress and the country to forget the plain lessons of our "winter of discontent."

When Mr. Hoover was Secretary of Commerce he appointed a group of distinguished men, of which Owen D. Young was chairman, to study the question of business cycles in unemployment. That conference reported in favor of unemployment exchanges as an impor-

tant part of any program for the solution of this important economic question. In the report of the Secretary of Labor for 1928 we find Mr. Davis advocated the establishment of employment exchanges as a vital part of any program to help solve the problem of unemployment. I further understand that the Secretary in a communication to the Senate Committee recommended the legislation contained in the Wagner bills.

Recently the Senate Committee on Education held extensive hearings on the subject of unemployment and in the report submitted by that committee it recommended as a vital part of any program for the solution of the unemployment problem the creation and operation of unemployment exchanges.

In a recent address before the United States Chamber of Commerce President Hoover explained that the Government was taking steps to solve the problem of unemployment. He mentioned three important methods by which the Government was attempting to prevent a recurrence of the present unemployment situation and these three methods are provided for in the bills sponsored by Senator Wagner. The collection of accurate information and statistics, the advanced planning of public works by the Government, and the establishment of employment exchanges is the program advocated by the President.

I thank you, gentlemen.

Mr. MOORE. Did the Secretary of Labor approve any bills, or any particular line of activity that the Government ought to take up?

Mr. MEAD. I will say to my colleague that I have read a great many reports emanating from the Secretary of Labor. It is my judgment the Secretary of Labor, in a number of public utterances, has recommended and indorsed the principles involved in these three bills. He did not come out and say "I stand for S. 3060"; but he has recommended the principles involved in these three bills, as has President Hoover.

I thank you very much, my friends.

Senator WAGNER. I want to say to the Congressman that the Secretary of Labor has, with only some minor suggestions, approved all three bills and I think there is a communication from him. He transmitted a letter to the committee of the Senate so stating and I think there has been a letter transmitted to your committee from the Secretary of Labor approving all three bills.

(The committee thereupon took a recess until 2 o'clock p. m.)

AFTER RECESS

The committee reconvened pursuant to the taking of the recess, Hon. Charles A. Christopherson presiding.

Mr. CHRISTOPHERSON. Senator, we will be glad to hear you now.

CLOSING STATEMENT OF HON. ROBERT F. WAGNER, UNITED STATES SENATOR FROM THE STATE OF NEW YORK

Senator WAGNER. Mr. Chairman, yesterday Mr. Emery quoted as authority in behalf of his contention against S. 3060, providing for Federal aid to State employment exchanges, Prof. John R. Commons, who I suppose ranks with the highest economists of the country and is frequently quoted as an authority on complex economic questions.

Here is a telegram from Professor Commons supporting this legislation, this very bill.

Mr. CHRISTOPHERSON. Would you mind reading the telegram Senator?

Senator WAGNER. This is addressed to Prof. Samuel Joseph, who is the economist who appeared here with a petition in behalf of this legislation and Professor Commons' name is on that petition approving the legislation. The telegram reads:

> Pleased to add my name to the signers of the communication on unemployment bills.
>
> JOHN R. COMMONS.

As a matter of fact, I have frequently communicated with the professor and I know he has been deeply interested in this very legislation as a first step in the proper direction. Then Senator Couzens made an investigation of this subject in behalf of his committee. As is generally the case, the chairman does most of the work. His report strangely enough was read in opposition to this legislation. Why, Senator Couzens, in the Senate, was one of the most ardent supporters I had for the progress and the final passage of this legislation.

I want to impress upon this committee that these bills, of course, are not new. A question which was asked by Congressman Michener yesterday indicated that perhaps I claimed some authorship of this idea and that it was new. I never made any such claim and I disclaim any originality as to this program now. In all of my speeches, from the very first time I called the attention of the country to the unemployment situation over two years ago and then protested that Congress had not attempted even to attack this serious question, I spoke of the conferences that had been had on the subject of unemployment many years previously. I referred particularly to the conference of 1921 and all subsequent conferences that have been had on the subject of unemployment, and I called attention to the fact, when these deliberations were finally concluded, that all of them agreed upon the very program which I am proposing to the Congress of the United States, without exception. I never claimed to be the originator of this program for the prevention of unemployment.

The press of the United States—and, after all, we must give the newspapers some credit for intelligence, and I do not think they would unanimously approve this legislation without some investigation, not only of the great subject of unemployment but also of the proposal to attempt to prevent an acute unemployment situation in this country—almost without exception, irrespective of political philosophy, has approved this legislation. Every group of economists—and they are the men we must rely upon more or less; they make a special study of these subjects to alleviate economic diseases—every group of economists that have ever studied this question, without exception, I will say, have approved this program. It is not a panacea; I never claimed it was, but it is a beginning, a proper effort to solve this most serious social and economic problem in which the Congress of the United States has been neglectful. The pioneers of the past have been met with the same legalistic argument—we want old-fashioned government—as if we were living in an entirely different age.

Now, what am I proposing here? We saw the spectacle yesterday, here, of members of the Congress of the greatest country in the world, the richest country in the world, the creditor nation of the world, asking "What unemployment have we in this country; how much is it?" We are absolutely ignorant upon that subject. This great Nation has not any statistics of the amount of unemployed and the character and the nature of the unemployment. Let me say, it is the only industrial country in the whole world which does not collect accurate statistics upon this very vital subject. We have been unduly endowed by Providence with natural resources and wealth; yet it has been here suggested that under normal conditions we may have 2,000,000 men out of employment. That suggestion is heartless. Who would say, who has any interest in humanity, that 2,000,000 men in the richest country in the world, starving and hungry, is a normal condition and that it can not be solved in a reasonable way.

I have great confidence in the Congress of the United States; I have great faith in the American people that when they are actually confronted with a problem and know the problem they will solve it.

The first bill that I proposed for the collection of accurate statistics is to know and understand the problem. We talk here about technological unemployment. That accounts for a great portion of these 3,000,000 unemployed, chronically unemployed. It is responsible, to a large extent, for the inability of men over 40 to find work in the large industries of our country. That is an army which is growing, growing, growing, and will be a menace to our very security unless we solve this problem, and every thoughtful statesman realizes that he ought to be prepared to attack it. We must have this accurate collection of statistics. No problem can be dealt with scientifically until the facts are known. We are collecting statistics and we know the facts of almost every other economic factor in this country, except the subject of unemployment.

It has even been suggested—it is difficult to give credence to such suggestions—that one of the reasons that heretofore we have not collected statistics on unemployment is that it is the most accurate picture of the actual economical condition of the country that we can have and no administration, it has been said, is quite willing to have the actual picture known, so that pretense at least may utter that prosperity exists when, as a matter of fact, we may be submerged in a very serious economic depression.

The technological subject is, I think, the important branch in this unemployment situation to study. Where are these men who are losing their places; why are they losing their places; what can be done to readjust them and keep them more nearly up to the standard of living to which they have been accustomed? Why should these men, may I ask you, gentlemen, be sacrificed upon the altar of progress, because, after some years' pursuit of a particular trade they have, over night, been deprived of their craft and thrown into the gutter, hungry, the family disrupted, and eventually child labor—whatever I say has been the result of whatever investigation has been made and shown to be the fact—family disrupted, character lowered, discontent with Government. Bound to come! And this opposition to-day affected me to this extent: There was not a throbbing of the heart in one of them for the plight, the tragedy, of the man without employment and a family to support. I know

something about it from my childhood days; I know what a hungry family means, and I want to tell you there is not a greater tragedy than a man looking for something to eat, with a wife and children at home waiting for him to bring it. You say that this rich Government shall not even make an effort, because of some legalistic, fantastic objection, to bring about a prevention of a recurrence of this serious and acute unemployment situation? Now, that is the reason this accurate information is absolutely essential.

It is not only essential for us to begin to study the unemployment situation but to know where it exists, what it is, how much is seasonal, how much is cyclical; what happens to the man; what can we do about it. These figures will reveal facts which will suggest other solutions, as all facts do when once brought to our attention. They will be used by the States, the municipalities and private industry, because they show the economic trend back and forth. Proper use of these economic figures will prevent, I am as certain as I am addressing you, depressions such as we have gone through. And we have got to be prepared for that. What happened here last November? I know it was heralded that the conference saved the country and that the tide of unemployment, had been arresed by the conference at the White House, where some resolutions were passed. Undoubtedly the President wisely called that conference; he did the best he could to prevent this terrific economic collapse which was on the way and undoubtedly the men who came there were prepared to help, but there had been no planning. You can not begin public works, or even private industry can not begin to construct work at once, unless they have planned ahead of time. If they had had these economic figures and they saw a depression coming, they could have provided against it and gone in with their public work, provided they had their works already planned. But we know, as a matter of fact, that from the time that we decide to construct a public work, to the time that actual construction can begin fully six months must elapse. In an economic emergency, all of these efforts to stem the tide are futile, because we are unprepared. However, if we have those accurate figures, we know the trend, and can foretell the prospect. Unemployment is like other diseases; it does not come over night; it comes gradually. If you have accurate statistics, you can see the barometer dropping and, if you are prepared, you will walk in and take up the slack and stabilize your economic situation. Because what essentially is all this unemployment? Unemployment results from overproduction; the industries, not having sufficient information, can not safely foretell prospective consumption and, therefore, if they hear nothing but press notices—prosperity is here; employment is plentiful—why they assume "Then we are going to sell a lot of things next year." They do not know the actual facts. Thus they produce away beyond the prospective consumption; then comes your collapse.

The problem is a Federal problem. All this talk about State rights! In economic depression there are no State barriers. A factory shut in Boston is bound to affect factories in other places I mean if the men there can not buy shirts and shoes, some other factory in some other city is affected thereby. It is a national question. To see how serious it is I compared, by means of what meager statistics we had, the wages paid out in two months. I took only factory work, which is only one of our economic activities. In

last January, they drew, in wages, $200,000,000 less than they did in September. That in itself is enough to cause an economic depression.

The second proposal is the public-works program, which was so indifferently discussed by the sentimental gentleman representing some organization here to-day. I think it is a very vital bill, recommended by the President, recommended by everybody who has ever studied the subject—based on the principle that if we could only time our construction of public works in such a way as to take up the slack when an economic depression in private industry is threatened we will keep the whole economic situation stabilized. This bill provides for a stabilization board. Members of the Cabinet that have to do with public construction are members of this board with a director who watches the economic barometer. It provides for advance planning so that the Government would not have to to wait six months and do all of its surveying, locating, and all of the preliminary steps that have to be taken before public works are actually begun. That is already done under this provision; surveys, blueprints, everything is prepared in advance. I think Secretary Mellon agrees that would be a wise plan. The director's business is to watch that barometer and when a depression is threatened, he does not wait until it drops down to where we have an acute unemployment situation. He prevents that by stepping in with a program of public works, public works which are to be done in any event. Somebody got the notion we were doing something in excess of what is normally required. Not at all; it is just timing its construction. It has been done in other countries; it is not a new plan, either.

The States will, undoubtedly, use these figures and the Federal Government, having set the example, the States will time their public works; because they are as interested in preventing unemployment as is the Federal Government. The municipalities will use these figures, and they will time their public works in accordance with this advanced planning system. And what have you got there? Over three and a half billion dollars per year are expended in public works. Just think of the power of that tremendous fund if intelligently used to keep this whole economic system stabilized.

Mr. TUCKER. From what is your estimate made—the three billion six hundred million?

Senator WAGNER. It has been collected. The Federal Government spends about three hundred and fifty millions. It has been collected by the National Bureau of Economic Research.

Mr. TUCKER. That includes Federal and State?

Senator WAGNER. Yes, Federal, State, and municipal—three billion and a half; which is, by the way, about one half of all of the construction of the United States. You see what a tremendous fund it is if effectively used and intelligently managed, and how it may help to stabilize the situation.

Mr. YATES. We had some figures yesterday in reference to the extent of unemployment and I wanted to ask you or some witness how we can go about getting the proper figures. Now, as I understand it, Mr. Green, the president of the American Federation of Labor, stated he thought the total number of persons unemployed was about 3,900,000.

Senator WAGNER. Yes.

Mr. YATES. Then some one else, in answer to other questions, said the total number of workers in the country was about 35,000,000.

Senator WAGNER. Yes.

Mr. YATES. Now, 3,900,000 is nearly 10 per cent of 35,000,000. You see what I am driving at. There is something wrong about that; because if the normal unemployment would be 3,000,000 and there are now only 3,900,000, we are only 900,000 worse off, and I think those figures ought to be corrected.

Senator WAGNER. Well, I stated, before you came in, that we had no figures on unemployment. That is one of the tragedies of this situation, and the first bill, which is not before this committee but which has been introduced and already reported in the House——

Mr. YATES. Mr. Green did give that figure of 3,900,000.

Senator WAGNER. It was more or less conjecture. There are no accurate figures. That is the thing I am insisting upon. In the first bill, which is not before this committee but which has been reported favorably by another committee of the House, it provides for the collection of accurate statistics.

Mr. YATES. You understand I am not contending the number is less; I think, if anything, it is more than 3,900,000.

Senator WAGNER. Yes. Miss Perkins volunteered there were about 5,000,000 out of employment, but we ought to know.

Mr. YATES. Yes; we ought to know.

Senator WAGNER. But we do not know, and that is one of the things I am trying to do—to provide for the collection of accurate statistics. And I said before you arrived, Governor, that ours is the only industrial country in the world which has not those accurate figures collected.

(At this point, there being a roll call in the House, a recess for 15 minutes was taken, at the conclusion of which the hearing was resumed, as follows:)

Mr. CHRISTOPHERSON. Senator, you may resume.

Senator WAGNER. I just want to emphasize one point before I leave the so-called advance planning bill. One of the opponents said this morning, undoubtedly because of a misapprehension of this whole subject, that my proposals are temporary proposals. Quite the contrary. They are to erect a permanent instrumentality of Government to deal with this subject at all times. It is not at all a temporary proposal.

I want to emphasize, too, the fact that after this conference in November, because of the fact we had not planned ahead and were not prepared for this slump, in spite of all the edicts that were issued, employment kept going down in January, further down in February, further down in March—which, by the way, was the first time in the history, that is, since we have collected any kind of statistics, that in the month of March there was a further recession in employment—a gain in unemployment.

Then comes April, a further drop in employment, and now May another drop. I say this to impress upon you the seriousness of the economic condition which is confronting us. Men working on the public construction are able to buy the goods of the other factories. There are about 27 different industries that are affected by public construction directly, and, in addition to that, the man who works buys shoes, buys clothes, buys hats, and so on, and in that way employment is stabilized. I have talked to large industrialists; they

are unable to get accurate statistics of unemployment. But if they got it from the Federal Government, they could plan ahead so as to stabilize their dinstry. You can begin a circle which helps to stabilize all the different economic activities and I have very great hopes for it as a solution of this question of unemployment.

Now let us turn to the bill, which seems to be the center of attack. Somebody suggested this morning, one of these gentlemen, perhaps uninformed again, that there are no employment exchanges in England and none in Germany. They have any amount of employment exchanges. That is the center, the crux, of their whole effort to solve unemployment—the employment exchanges. We have altogether 170 offices, and here is Great Britain, with a population of only 42,000,000 as against our 120,000,000, and she has 1,162 public exchanges; Germany, with a population of 62,000,000, has 1,293 public exchanges—to bring the man to the job. They found it absolutely essential during their trying times to have these exchanges, first, to segregate the individual, to find out what he can do, what kind of a mechanic he is, and then to send him to the job that wants that type of man. We have no such analysis here.

Secondly, here is the way they are attacking the technological unemployment. A man has lost his craft; they find out just about what kind of work he can do and they have a vocational training school connected with the employment exchange. He is put in there for a week or two, readjusted, so that with his mechanical skill he can do some other type of work for which there is a demand and back he goes into the new employment and maintains his standard of living. That is what these employment exchanges are doing there. And let me say, too, that in all of these conferences where the subject of unemployment has been discussed, they have all recommended employment exchanges, as a part of a program to deal with this subject,—everyone of them.

Mr. MONTAGUE. Did they recommend the transportation of those seeking work to these various places?

Senator WAGNER. Yes; they spoke of interstate placement.

Mr. MONTAGUE. Yes, I know; but did they say the Government shall transport them from one place to another, free of expense?

Senator WAGNER. They recommended employment exchanges and one of the functions of the employment exchange is interstate placement, which must mean that their function is to take the man from the place where he is, to the place where he is wanted.

Mr. MONTAGUE. Do these present private agencies do that in any way?

Senator WAGNER. Well, you see, they have not this cooperation. The purpose of this whole legislation is to bring about cooperation between the States.

Mr. MONTAGUE. Yes; I understand that.

Senator WAGNER. Much of the opposition to-day went on the assumption there are not any State public employment exchanges. Twenty-five States have employment exchanges to-day; but none of them is informed as to the economic condition of another State. Now New York State cooperates by a special arrangement with the State of New Jersey; the employment exchanges of the State of New Jersey cooperate with the employment exchanges of the State of New York. Miss Perkins related that before the Senate committee,

but I do not think referred to it here—where men of a certain type are wanted in New Jersey, a factory is starting up and there are no men available in the State—they communicate with the State of New York and find out whether or not there are men in the State of New York out of employment who would fit into a place of a particular kind that is available. And it is this cooperation between the States which everybody, who has dealt with this subject, has emphasized. President Hoover, in his addresses, has referred to the extension of our employment system, so as to extend the cooperation between the States, and the purpose of this bill is to bring about that cooperation.

I have been unable to follow the argument of Mr. Emery and, by the way, I think we can justly do the honor to Mr. Emery of saying that he is the manufacturers' association when it comes to questions of this kind. Although Mr. Emery's organization opposes it, I have not heard from a single manufacturer in the State of New York against this legislation and we have a great many of them there—we are a pretty large industrial State. The only opposition I have heard against this legislation is from private employment exchanges. Now the private employment exchanges, according to their statement here, have an entire misconception of this bill. This does not attempt to regulate private employment exchanges; it has nothing to do with private employment exchanges. It deals only with Federal aid to the State employment exchanges in order that we may have cooperation between the States, this communication of economic conditions in one State so that another State may know, which all of the students of this question say is absolutely essential if we are to deal with the question of bringing the man to the job at all. In his brief Mr. Emery said that this bill was coercion—coercion of the State. Before your committee he has used the word seduction.

Mr. EMERY. Both.

Senator WAGNER. You have used them both?

Mr. EMERY. Yes.

Senator WAGNER. Both coercion and seduction. Well the States decide absolutely whether they will accept this Federal aid or not. Where is there any coercion? If the State says no, that is the end of it.

Mr. BACHMANN. Let me ask you right there—I do not understand that is the case from my reading of this bill, because does not section 10 permit the director general, if the State does not go along, to set up those offices and go ahead?

Senator WAGNER. To erect a Federal office.

Mr. BACHMANN. Yes.

Senator WAGNER. Yes; that can be done to-day, Congressman.

Mr. BACHMANN. I just wanted to clear up the answer which you made just now, that if the State does not elect to go along and the legislature refuses to adopt the provisions of this act, then the director may set up a Federal employment agency in that State.

Senator WAGNER. Yes.

Mr. BACHMANN. And donate from the appropriation what is necessary to carry it.

Senator WAGNER. Yes.

Mr. BACHMANN. Therefore although the State has not consented, the director can go in and establish the office just the same.

Senator WAGNER. Exactly. He can do that to-day. We have, what is not generally known, an employment exchange to-day.

Mr. BACHMANN. I am talking about the provisions of the bill.

Senator WAGNER. I understand that. We have an employment exchange to-day; the director can erect as many as he likes, and that is why I can not see the logic of Mr. Emery. He does not object to that, but he does object to the provision of the bill which says, in the event the State does not accept, Federal aid then the Federal Government, in order to secure this cooperation, [again between the States], may erect an exchange of its own.

Mr. BACHMANN. What could be the objection to that provision if the Government can do the same thing now without this law? If it can do it without this law, what is the objection to the bill?

Senator WAGNER. I am glad you ask that. We have heard a good deal here about the handling of employment exchanges as a local State function and I want to preserve it as a State function; so, instead of creating these agencies throughout the States, exclusively under Federal Government supersision, I provide that the States shall do the whole thing with Federal aid. Under the bill the State conducts the entire employment exchange; it appoints the employees; it does all the work in connection with the employment exchange.

Mr. BACHMANN. You say the State appoints its own employees?

Seantor WAGNER. Yes.

Mr. BACHMANN. And that is the intention of the bill?

Senator WAGNER. Yes.

Mr. BACHMANN. But the wording of the bill does not say so.

Senator WAGNER. Where do you see anything to the contrary?

Mr. BACHMANN. Well the States have got to agree, in the first instance, definitely to comply with the provisions of this act as is; is not that correct?

Senator WAGNER. Yes.

Mr. BACHMANN. With the provisions of this bill, if enacted as passed?

Senator WAGNER. Yes.

Mr. BACHMANN. That means the States have to carry out the provisions of this bill?

Senator WAGNER. Yes.

Mr. BACHMANN. And this bill provides for the employees to be selected through the civil service law.

Senator WAGNER. No; it provides for the Federal employees, it provides for those in the office here to be selected under the civil service law.

Mr. BACHMANN. It does not say that. That is the thing I want to get at.

Senator WAGNER. Oh, yes; there is no question about that.

Mr. BACHMANN. I would like you to point that out to me. I do not want to be technical, but that has been bothering me considerably.

Senator WAGNER. There is no provision that prevents it. Section 2 reads:

> The Secretary of Labor is authorized, in accordance with the civil service laws, to appoint, and, in accordance with the classification act of 1923, as amended, to fix the compensation of a woman assistant director general, who subject to the director general, shall have general supervision of all matters relating to the obtaining of employment for women, and, in accordance with the civil service laws, appoint—

Mr. BACHMANN. That is in the beginning, and in accordance with the civil service laws to appoint.

Senator WAGNER. Yes; that is the Federal Secretary of Labor; it has nothing to do with the apointment of State officers.

Mr. BACHMANN. Where is it provided in this bill that the States can appoint the personnel of the State offices?

Senator WAGNER. Because the State conducts its own State exchange.

Mr. BACHMANN. If that is the intention of the bill, then there would be no objection on your part, as the author of the bill, to our incorporating in there for the State to select the personnel of its office, that they are at liberty to select whom they please, regardless of the civil service law?

Senator WAGNER. Of course; but first let me ask you to do this, Congressman, to read the bill carefully and see if you see any difficulty about that; because I do not see any difficulty about it. The only thing the State is required to do is to submit its plan to the Federal Government, so that the Federal Government may know how its money is to be spent and to comply with certain requirements, such as the collection of statistics.

Mr. BACHMANN. I am in sympathy with the purpose, all right.

Senator WAGNER. Yes.

Mr. BACHMANN. I want to assist along that line, but the thing that was bothering me was some of the wording of this bill and I noticed, in three or four specific instances in here, you are very careful to say it must be done in accordance with the provisions of this act. Now it does not single out any provision; it says all of them.

Senator WAGNER. Yes.

Mr. BACHMANN. And I would be disposed to oppose the legislation if this bill would permit the Federal Government to establish these employment offices in all of the States and counties and political subdivisions and to put in there civil-service employees, when many of the States do not follow the civil service law.

Senator WAGNER. Congressman, I have had some experience in law and legislation and I will stake my reputation that under the provisions of this bill the States are unfettered so far as the policy they desire to adopt in the appointment of the employees in the employment exchanges is concerned—absolutely. And it is to meet what I feared was an objection to national employment exchanges throughout —the States' rights objection—that I provided that this cooperation be secured by having the States do it all and to give Federal aid simply upon condition that certain things be complied with, namely, that we want the statistical information and, also, that the Federal Government take care of the placement between States—the clearing between States.

Mr. BACHMANN. I am clear as to the purpose of it; that is all right.

Senator WAGNER. Yes.

Mr. BACHMANN. The thing that is bothering me, that I am having difficulty with, is the particular wording in this bill.

Senator WAGNER. There is not anything in here and I am sure if you will read it over, you will be staisfied.

Mr. BACHMANN. I will say to the Senator I have been over it two or three times and am still having some difficulty with it.

Mr. MONTAGUE. How could the United States impose upon the States the determination of the employees, the selection of the officials for their own employment exchanges?

Mr. BACHMANN. I do not understand that they could; but what they could do, under this bill, is not to make the appropriation to the States unless the States did adopt the legislation as is.

Mr. MONTAGUE. I can see that.

Mr. BACHMANN. You say you have not that purpose.

Mr. CHRISTOPHERSON. If I may suggest, Senator, I think the committee all appreciate the facts that have been stated both in the opening and all along as to the benefits of helping unemployment, but we would like to hear what your idea is on the question of the right, under our Constitution, to create these organizations throughout the land—just along the line of Governor Montague's question.

Senator WAGNER. We are not creating the organization; the State is doing all of that. We are simply giving Federal aid, just as we give Federal aid in many other instances. If there is any constitutional objection to this, then all of your Federal aid is unconstitutional.

Mr. TUCKER. Oh, no.

Senator WAGNER. Your maternity legislation——

Mr. CHRISTOPHERSON. Of course, the good roads, that is under the provision for establishing post roads, and so forth.

Senator WAGNER. All right. What about your Department of Agriculture—your appropriations for the Department of Agriculture? That comes under the general welfare provision of the Constitution. What about your Department of Labor? If this is unconstitutional, the appropriation you make for the Department of Labor is unconstitutional. If this is unconstitutional, the appropriation you make for the health service is unconstitutional. If this is unconstitutional, the vocational school appropriation is unconstitutional. If this is unconstitutional, the Bureau of Fisheries is unconstitutional. All of these appropriations are constitutional, or one-third of your Government would just collapse.

Now, you have an employment service to-day, a Federal employment service to-day. Nobody has ever suggested that the money expended for the employment service is unconstitutional, or is not authorized by the Constitution. Why, I have been used to these constitutional arguments? I remember away back in the State of New York, when we first tried to limit the hours of labor for women in factories, the argument made there was—it is unconstitutional; how can you interfere with the individual who wants to work long hours; how can you stop him by legislation?

Mr. MONTAGUE. That is your State constitution.

Senator WAGNER. Yes; and also the Federal Constitution—due process of law.

Mr. KEOWN. May I suggest, Senator, there is no inhibition in the Constitution against making this appropriation at all, is there?

Senator WAGNER. I do not know of any; I think it is absolutely authorized under the Constitution, or all of these other functions we are performing are unconstitutional. Let me give you an illustration. When I was in the State Senate in New York (Doctor Andrews here was in this fight) about 52 protective laws were passed. One of them was to prevent women working in factories at night. It was tested in the court. They said, "How can you prevent, under the constitution, women working in factories at night if they want to? That is depriving them of liberty, of their right to contract." But, of course, the court came up to date; it had not the old-fashioned notion of constitutional government.

Mr. MONTAGUE. You were dealing under a constitution then of unlimited powers; you were dealing with the New York constitution. The Federal Constitution is a Constitution of limited powers; you were dealing with a constitution of unlimited powers. There is a vast difference. I do not say this is unconstitutional, but I say there is a vast difference in the two cases.

Senator WAGNER. The question of being deprived of the freedom of right to contract—that right is guaranteed by the State constitution and the Federal Constitution—due process of law, of course. That is protected under both Constitutions.

Mr. TUCKER. Yes.

Mr. MONTAGUE. That is clearly under the police regulation of your State.

Senator WAGNER. That is the argument made here, that we are giving the money to the State in return for a surrender of its police powers. Why, the States do not give up anything; they exercise their police power by saying "All right; we will take this money and we will collect these statistics for you; we will cooperate with the other States." It is no more than if I make a contract with you to buy your house for a certain sum of money. I do not give up my right to contract when I make that contract with you; I exercise my right to contract. So the State is not giving up anything; it exercises the right which it has. It may reject or accept, as it pleases. And all of this talk about coercion of the State is untenable, to put it very mildly. Mr. La Guardia asked Mr. Emory, "Well, if you are opposed to this, do you favor a Federal employment exchange in the States," and he said, "Yes; provided they cooperate with the States." And a little while later, in opposition to this bill, he said "The objection I have here is that if the State does not accept the Federal aid, then the Government may itself erect an employment exchange." Now what sort of logic is that?

Mr. SUMNERS. Senator, are you through with that particular statement?

Senator WAGNER. I did not finish my historical recitation of the experience we had in the State of New York. That case went to the Court of Appeals and they sustained the constitutionality of the legislation. They said the State has an interest in its individuals and has an interest in their helath and their welfare, and this is a protective measure in the exercise of its power to protect the health of the people of the State. And that is what this is. Men are starving, hungry, in a country of plenty and some one will talk about some constitutional inhibition of a power which, we have been exercising from the formation of our Government. And this argument is as old as the Government itself.

Mr. BACHMAN. I want to say I do not want to be misunderstood. I have great respect for the opinion of the Senator and the opinion of the court in the State of New York, and as I understand this bill, I am not disturbed about the constitutional features of it; because I can see very clearly you try to get around whatever constitutional questions may be presented against it by the wording of the bill.

My trouble is not with the need for this kind of legislation, either; my trouble is with the wording of this bill and the practical operation of it, and I would like for you to follow it just a minute and clarify this if you can. Section 2 provides for the appointment of these employees under the civil-service law and the classification law. Now when we come down to section 4, you say this in section 4—

> * * * in order to obtain the benefits of appropriations apportioned under section 5, a State shall, through its legislature, accept the provisions of this act and designate or authorize the creation of a State agency.
> And so forth.

Now, you make the State legislature, if they are going to share in this percentage to which they are entitled under this, 75 per cent of this appropriation, according to their population, you say the State legislature shall adopt the provisions of this act, or they do not share in the appropriation.

Senator WAGNER. Yes.

Mr. BACHMANN. In other words, you say to the State—and I assume that is in order to get around this constitutional provision—if you want to go along with this and share in this appropriation, then you shall, through your legislation, adopt the provisions of this act. And I can not find any place in this act which says the State can go ahead and select its own personnel and employees in those offices.

Senator WAGNER. There is no provision for that in here.

Mr. BACHMANN. Then, if we enact the provisions in the bill and there is no provision in there, and they must accept the provisions of the act, then the fact remains that every man who is employed by the States in these employment offices must be selected under the civil service law of the country.

Senator WAGNER. No; because section 2 has only to do with the Secretary of Labor.

Mr. Bachmann. Oh, no; it goes further than that. If you go down to line 10, you will see, after you provide for selecting the assistant director, it provides, in line 10, "to appoint, and, in accordance with the classification act of 1923, as amended, to fix the compensation of." You put all of these employees under there and, in three or four places, you are specific in writing in this bill the fact they must comply with the provisions of the act. That is the thing that is worrying me.

Senator WAGNER. All right. I am very clear, Mr. Backmann, that in no way binds the State or affects it; but, if there is any doubt in your mind about that, if you want to clarify that, you are at liberty to do so.

Mr. BACHMANN. Let me ask you this and see if it clarifies it. Supposing the attorney for the Department of Labor would so interpret this act, which I think he can from the language used, as to say that all those employees must be selected under the civil service act of the Government, and the Government reserves the right to put in those different States the office employees, where are we?

Senator WAGNER. No judge on earth would make such an interpretation.

Mr. BACHMANN. The bill says that; your bill says that can be done in this language here.

Senator WAGNER. I do not think it possibly can be so interpreted; but, if there is any question about it in your mind, I have no objection to clarifying it.

Mr. CHRISTOPHERSON. In other words, it is not the intention of the bill?

Senator WAGNER. Absolutely not, and I do not think that is the provision of the bill. I differ with him on that.

Mr. BACHMANN. If there is any legislation enacted on this, I want to see it in the bill, so that we know what we are legislating.

Senator WAGNER. There is no question about that; that is the purpose of it.

Mr. SUMNERS. Senator, personally I have no doubt as to the constitutional power, under the decisions of the Supreme Court, to make this appropriation and, the Federal Government having made the appropriation, it can attach any conditions within reason and I would almost say can attach any condition, but I would not like to go that far, as I understand it, incident to the States' acceptance of the appropriation. In other words, the Federal Government says, Congress says, "Now we are going to appropriate so much money and the States can avail themselves of it provided the States do certain things." I have no difficulty myself in so far as the constitutional power to do that sort of thing is concerned; but the thing I am concerned about—I mean in this character of legislation—reaches to the philosophy that underlies the Constitution, as I understand it, and involves this essential thing, as I appreciate it, in our system of government, namely, to preserve among the people and in the agencies of the Government closest to the poeple and more directly under popular control a sense of responsibility in dealing with all of these problems of Government. And I would like, in the formation of this legislation, for those who have to do with it to have a responsibility in reference to it, to go as far as can be gone to carry out the purpose you have in mind, so as to leave discretion and responsibility in the States and to prevent that thing which we so frequently observe in this character of legislation, namely, the shriveling up and dwindling of State power and State control, in the sense of State responsibility, and the transfer of that power and responsibility to those Federal agencies. Now, that is the thing with which I am concerned and I believe every patriot interested in serving our system of government has that concern.

Senator WAGNER. I might say to the Congressman that is what I had in mind. There are two alternatives. Everybody agrees, who has studied this subject, that these employment exchanges are essential. We must admit that State lines are no longer economic barriers.

Mr. SUMNERS. Yes, I recognize it in Public Health; I recognize that the Federal Government, under present conditions, economic conditions, or conditions associated with transportation, performs proper, legitimate and none hurtful functions when it acts as a clearing house for the concentration of information and dissemination of information and, as an agency for the States in doing for the States that which a separate State can not do. I appreciate that. But in the doing of that thing, I would like to see the Federal Government leave untouched as nearly as possible that responsibility.

Senator WAGNER. Well how are we going to get cooperation between the States; how can we ask the State to give us this information to transmit to other States, unless the Federal Government is in there somewhere between the States. You can have Federal employ-

ment exchanges in every State in the Union, who will do this communicating between them and so have the clearance between the States, or you can let the States operate the offices. There is the only alternative. Now I took what I regarded as the alternative which preserved States rights as against the alternative of having the Federal Government do it exclusively.

Mr. SUMNERS. An still preserve the States' responsibility.

Senator WAGNER. Yes; they are responsible for the entire administration of those offices. The aid that they get is because of the help which they give the Federal Government in helping the clearing of labor, the placement between States, and collecting this accurate information; which you of course appreciate how invaluable it is for us to have. We can not solve this problem without this information. So I would like to ask you which way should we have this cooperation and still keep the entire control of the function within the control of the State. I want to avoid the very thing I am charged with by Mr. Emery (and because of his contradictory arguments, I take it it is not the actual reason for his opposition) I want to preserve the States' control, so that no one could complain about States rights, and yet bring about this cooperation. And I have thought and thought—I mean this is not new with me—and if I could have thought of a better plan, I certainly would have proposed it, to get this cooperation and still keep States rights.

Now I would like to ask you if you have any better plan, mind you, of keeping the clearance between the States. Because, mind you, Congressman, the more you study that question, the more you realize that it is a thing which can only be solved by cooperation between the States. A public work started here in Washington, affects the shoe factory in Massachusetts, textiles in the South and in the New England States, factories in my State. It is so widespread that it requires cooperation in order intelligently to deal with this subject. And this cooperation being absolutely an essential part of the program, I thought this would preserve State rights and yet give us that cooperation. The only alternative is to forget the States entirely and do it all by the Federal Government; which, by the way, Mr. Emery suggested this morning. That is why I say I can not follow his argument at all.

Mr. MONTAGUE. I do not see there is anything in the constitutional objection, but I am rather surprised at your opening argument this morning when you said this matter was so exigent of such immense, transcendent concern, that the Constitution had nothing to do with it. That was substantially what you said this morning?

Senator WAGNER. Oh, no.

Mr. MONTAGUE. Then I misunderstood you.

Senator WAGNER. Governor, you certainly misunderstood me.

Mr. MONTAGUE. I am glad I did.

Senator WAGNER. I think that the constitutional arguments made against it are untenable, in my judgment fantastic.

Mr. MONTAGUE. And I understood you further to say the measure was of such moment that it did not make much difference. You did not use that language?

Senator WAGNER. Oh, no. Whatever you may say about me, I am more stable than that.

Mr. MONTAGUE. I did not mean to impute to you instability in any way; I just wanted to see if I understood you correctly. Now, the gentleman who preceded you boldly took that position, the Member of Congress who argued here.

Senator WAGNER. I did not know he said that.

Mr. MONTAGUE. He boasted that the Constitution had nothing to do with it in the face of a measure of such tremendous importance as this. That is neither here nor there, however.

Senator WAGNER. The Constitution, after all, is what the judges say it is; that is what the Constitution is.

Mr. MONTAGUE. Then you think we have nothing to do with it, Senator?

Senator WAGNER. Now is there any doubt about that in your mind, Judge?

Mr. MONTAGUE. There is a doubt in my mind about it. Why do they swear you and me to support the Constitution here, if we have nothing to do with it?

Senator WAGNER. Is not the Constitution as the United States Supreme Court interprets it?

Mr. MONTAGUE. Ah; but the United States Supreme Court, as you know, Senator, has bowed its head many times.

Senator WAGNER. But it is what they say it is.

Mr. MONTAGUE. Oh, yes.

Senator WAGNER. That is perhaps axiomatic——

Mr. MONTAGUE. Frequently, however, we do not save them from saying what they do, by our congressional cowardice.

Mr. MCKEOWN. Senator, there is not anything in this bill, as I see it, that would interfere with these private agencies being enabled to have the information furnished them. This Government information would be available to all concerned.

Senator WAGNER. To anybody. This does not deal with them in the slightest; it has nothing to do with private agencies.

Mr. MCKEOWN. In other words, I would not like to see any established business put out of business except where the emergency required it. Of course, in the farm legislation we are putting out of business some of the middle men, but of course it is because of the distress of the existing condition that brings it about.

Senator WAGNER. Yes.

Mr. MCKEOWN. Now, I take it that these private agencies, very naturally, could locate certain classes of the unemployed. I agree that every man who is poor and out of work should have an opportunity, if he wants to, to get free service; but, on the other hand, if he can get quicker service and can pay for it, he ought to have that opportunity.

Senator WAGNER. This does not interfere with them in the slightest. We have 25 States with public exchanges now; this does not change the situation. This does not deal with private employment exchanges at all.

Mr. BACHMANN. Is not this the fact, Senator, that this does not of necessity say that the States have got to comply with this bill; it is optional with the States?

Senator WAGNER. Absolutely.

Mr. BACHMANN. And, when it is optional with the States, where is there any constitutional feature, or State rights feature, involved in it?

Senator WAGNER. I am trying to preserve State rights; but if we are to have cooperation between the States at all, this is the only way we can have it and preserve State rights.

Mr. BACHMANN. Yes; but you do not say the States have to adopt it.

Senator WAGNER. Absolutely not.

Mr. BACHMANN. It is optional with them.

Senator WAGNER. Yes.

Mr. BACHMANN. And if they decide to do it, that is up to the States, and then the States could not be complaining if the State legislature decides to go through with that. So you have no constitutional features in here, because they consent to this.

Senator WAGNER. As a matter of fact, I have received communication after communication from State exchanges all favoring this legislation. They think it is a great step forward in helping the placement of workers. Sometimes you have to pick out insignificant things and make much of them in opposition. A great point was made that here is the governor of a State who may, without the consent of the legislature, enter into this agreement. You can take that provision out, if you like, although I think it should stay in. In the first place, the governor could not enter into an agreement unless the legislature gave him the power to do it, and then only in cases where the State was not in a position to act, where it has a biennial session, and this agreement would only last until the session of the legislature meets. It is provided for, in that kind of case; that is provided for in all of these Federal-aid bills. Much was made of that, but it was simply providing for a contingency.

Mr. SUMNERS. Let me ask just this one question, and then I have no further questions to ask. So far as your general plan with reference to this legislation is concerned, what you would like to have and what you propose to do is to leave to the States the responsibility and power, within their borders, and to provide, through a Federal agency, a common agent for the States in dealing with this question, in so far as the dissemination of information and the shifting of labor is concerned?

Senator WAGNER. From State to State. That is what they call cooperation in interstate placement.

Mr. SUMNERS. That is what you have in mind and what you are trying to do?

Senator WAGNER. And that is what I think the bill does, absolutely. This has been scrutinized by many, many people interested in the subject.

Mr. BACHMANN. You want to get this into effect just as soon as you can?

Senator WAGNER. I really think the Congress is taking a great responsibility if they do not deal with this subject in this session.

Mr. BACHMANN. And there is need for this kind of legislation right now, with the unemployment situation in this country?

Senator WAGNER. Absolutely.

Mr. BACHMANN. And if Congress saw fit to pass this bill, to enact it into law, will you tell us how long it would be before it could be put into operation?

Senator WAGNER. Well my judgment would not be so good on that. I think they would go to work at once.

Mr. BACHMAN. Could it be put in operation under six months' time?

Senator WAGNER. If the appropriation is made, I should think so. Those things go pretty quickly.

Mr. BACHMANN. Well under your civil-service provision, you would have to go ahead and select all the employees under the civil service law.

Senator WAGNER. That is only here in Washington; that would not be for the offices such as your office.

Mr. BACHMANN. If the States did not go ahead and elect to adopt this bill—

Senator WAGNER. The State is unhampered.

Mr. BACHMANN (continuing). Then the director goes ahead and establishes these different offices out through the States; and those employees, there is no doubt, would have to be selected under the civil service law.

Senator WAGNER. There is very little of that. Of course, that can be done to-day; the employment service to-day can go into any State and erect an employment exchange. That is not new at all. I can not imagine a director doing that except in a case where there was an absolute necessity, because we want this cooperation between the States. I am certain there are some States where perhaps an exchange would not serve much purpose; if it has no large industrial cities where an unemployment problem really exists.

Mr. TUCKER. This bill is framed very much on the lines of the old educational bill, 50-50; pretty much the same thing.

Senator WAGNER. That, of course, is true. The advance planning bill ought to be passed at once, because it takes the Government about six months to get ready; and if there is another slump, they ought to be already prepared with their blue prints and all the other preliminaries, so that the work can start at once.

Mr. MONTAGUE. Senator, why can not they do that now?

Senator WAGNER. Well the difficulty is, Governor, they have not the information to know when the economic depression is coming. We only know it when it is here. Now that is the purpose of this whole legislation and, as I said before you entered, while some people have been talking here about some temporary palliatives, this is to be a permanent governmental instrumentality.

Mr. MONTAGUE. I understand that.

Senator WAGNER. To deal with this subject.

Mr. MONTAGUE. I understand that.

Senator WAGNER. To plan ahead.

Mr. MONTAGUE. That is a great help.

Senator WAGNER. Yes, and you can not do it without this accurate information. That is why I say it is of primary importance.

Mr. MONTAGUE. But here is a matter where the Government has appropriated a great deal of money for public buildings of one sort and another; it has blue prints and plans that have been drawn for two or three years: Why do not they go along and do something with it? They have the money already appropriated and they won't do anything.

Senator WAGNER. They ought to do it and here you have a mandate from Congress, a policy declared that this must be done during periods of depression, and they have to be all ready with the planning.

Mr. MONTAGUE. Suppose the Executive does not do it; what are you going to do then?

Senator WAGNER. Then he ignores that law as he does any other mandate of Congress. But I can not conceive that the Executive would neglect to act.

Mr. MONTAGUE. Oh, I think the Executive would do the best he could; but the Executive is hedged around with an enormous lot of bureaucracy and it would be almost impenetrable when he got into it, and he would not get through; they would have one reason and another to tell why the Executive should not act, and so on, and so on.

Senator WAGNER. Of course, we won't do nothing if we have this apprehension about all questions.

Mr. MONTAGUE. It is not an apprehension; it is an actuality with me.

Mr. CHRISTOPHERSON. Do you have anything further to say in rebuttal?

Senator WAGNER. I just want to say that Secretary Davis, in his annual report of 1928, recommended these employment exchanges with Federal aid to the States, so as to bring about cooperation.

Mr. CHRISTOPHERSON. I have been asked to note on the record that Congressman James M. Fitzpatrick, of the twenty-fourth district of New York, desires to be recorded as appearing in favor of the bill.

STATEMENT OF HON. JOHN L. CABLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. CABLE. Mr. Chairman and Members of the Committee, I am glad to have the opportunity of presenting my ideas on these two bills, particularly H. R. 8374. This bill seeks to provide for the establishment of a national employment system. It is not a new venture by the Federal Government; neither is it based on the 50-50 proposition of cooperation with the States. The Department of Labor now carries on work in a limited way as proposed by this bill. Mr. Francis I. Jones is the director general of employment for the Department of Labor, and he has in years past endeavored to ascertain the needs of labor in a particular State or community and then advertise that fact, and ascertain where there is an excess supply of labor in another part of the United States, and bring the employer and the employee together. It is strictly a Federal proposition. Then, in the last few years, the same Department of Labor, under the direction of Mr. Davis, has been establishing employment offices to assist exservice men in securing positions.

Now my idea is this is exclusively a Federal proposition. Senator Wagner introduced three bills, S. 3059, S. 3060, and S. 3061. The second of those bills provides for the establishment of a national employment system and for cooperation with the States in the promotion of such system and for other purposes. That is simply an extension of the domination of the Federal Government over State activities, such as we have in many lines now, and it seems to me the time has come when we should cease to dictate to the States, through Federal appropriations, how they should carry on their local activities. I feel, in the consideration of the unemployment situation, that the States and the cities and the counties are as much interested in securing employment for their men and women as the Federal Government and that the Federal Government should restrict its activities to the interstate commerce, you might say, of those who wish to go from one State to another in search of employment. In our hearings before the Immigration Committee on Mexican Restriction, we had quite a few instances where men in Minnesota, for example, would hear there was work down in Texas and, not being able to obtain advice from any one, they would leave their home and go to Texas and, arriving there, find there are 5,000 men and women who are after similar positions.

My thought is to establish in each State, perhaps at the capital, some kind of a strictly Federal employment service, with the idea that the man in that State, if he hears about an opportunity or position in another State, where he believes he could qualify and would like to have the position, would take the matter up with the Federal officer in the capital of his particular State and that Federal officer would get in touch with the Federal officer in the State where the position is supposed to be available. Then he can advise the man whether he should leave his own State and travel across other States to seek the position. In that way we would expand the present Federal service now restricted to agriculture and the employment of ex-service men. It would not incur an obligation on the part of the State, as does Senator Wagner's bill, to put up a similar amount of money to participate in that service. I see no reason why the Federal Government should call upon the States to take care of and assist in such a line of work. It is the duty of the States, if they feel there is unemployment in a particular State, so far as jobs in that State are concerned, for the State and the local authorities to take care of that man and assist in finding a position; but, when it comes to traveling from one State to another, there the Federal Government has a right and should intervene and exercise authority under a bill similar to H. R. 8374, by advising that man whether he should leave his home State to go to another State, advise him whether there is a chance for employment. Therefore I feel a Federal employment service, rather than a combined Federal and State employment service, is the proper procedure for Congress to carry out.

All three bills of Senator Wagner, I understand, have passed the Senate and I believe are now before this committee for consideration. The other bill (H. R. 3138), was introduced with the thought of giving employment to local contractors and local men and women in a particular community. For example, if they are constructing a post office in your home city, you would prefer, I should think, to have your home folks and home contractors taken care of first, and the bill provides that the inhabitants of the State or the district in which the service or the labor is to be performed should first be used, before outside labor should come in.

Mr. MOORE. Under what—if any limitations?

Mr. CABLE. The limitation is to a public job, such as a Government post office building, or Government construction of any kind.

Mr. MOORE. Notwithstanding the bid—are there any conditions under which they would be awarded?

Mr. CABLE. No. Permit me to read it. The bill provides—

> That it shall be unlawful, except in case of extraordinary emergency, for any contractor or subcontractor to use on any public work of the United States, or of the District of Columbia, the services of any laborer or mechanic who is (1) an alien.

In other words, take care of American citizens first.

* * * (2) Not an inhabitant of the State or district in which the services of such laborer or mechanic are so used.

Mr. MOORE. I see the purpose of the bill; it just has to do with the employment of local labor.

Mr. CABLE. With the employment of local labor.

Mr. MOORE. And not with relation to the contract.

Mr. CABLE. No. The contractor, however, would have to take into consideration the availability of local labor and the price he would have to pay for that labor, rather than going in some other part of the country and importing a lot of cheap labor into the home city of yourself or myself, on the construction of a post office or other Government building.

Mr. DYER. Do you think Congress has the authority to so legislate, Mr. Cable?

Mr. CABLE. I do not think there is any doubt about it. It is a Government building. I think we have gone so far, in improving some harbors, such as out in Hawaii, as to provide as to the labor. But my particular interest is in H. R. 8374. I feel the conditions in this country are such that Congress should take some action and since this is the committee to which the Senate bills have been referred, I feel it is up to the committee to give further consideration to the proposition of unemployment in the country, and the method of relieving the same.

I want to thank you for the opportunity of appearing.

Mr. DYER. We are very glad to have heard from you, Mr. Cable.

MANUFACTURERS AND EMPLOYERS ASSOCIATION OF SOUTH DAKOTA,
Sioux Falls, S. Dak., May 23, 1930.

Hon. C. A. CHRISTOPHERSON.
House of Representatives, Washington, D. C.

DEAR SIR:

* * * * * *

Another measure which is creating much comment is the Wagner bill, S. 3060, which was passed by the Senate on the 12th and will undoubtedly come up before the House for consideration soon. This creates a United States Bureau of Employment and adds another expensive bureau to the Federal system and would duplicate work which is adequately handled at the present time. (At the present time South Dakota does not expend Government funds for employment service operations—it would be entirely out of line with present tendencies toward economy and adjustment of expenditures to add such services—as might be done through the 50-50 subsidy embraced by this bill—to our already heavy State expenses. While this bill would not force such operations, it opens the way and encourages them.)

The control of operations financed by a State should be in the hands of the State. This bill gives the Federal Government the right to invade these internal policies of the individual states. Where conditions are as unique and different from other States as they are in South Dakota, the police powers should remain intact in the hands of the State and its citizens.

It is a most extraordinary attempt to control the labor situation through Federal standards and regulations. It establishes a precedent which, if encouraged, would open the way for unlimited Federal control.

The most dangerous part of the bill, it seems to us, is that provision which covers the use of the $1,000,000 per year for the establishment of Federal bureaus in States which have none or in States which do not comply with the provision relating to State acceptance of Federal aid and control. This makes it almost a compulsory matter to take aid and control or invite Government competition for the existing bureaus already established. The bill also provides that the Federal officials may settle the matter with the governor of the State, not through legislative action.

We can see only duplication of effort, additional expense and increasing friction as the result of the passage of such a bill. We do believe that the Government can use facilities already existing to get information regarding conditions and to secure cooperation between States and for that reason believe there may be some value to the other two Wagner bills which the Senate has already passed. But we can see only harm from bill S. 3060 as far as South Dakota and its interests are concerned.

Very truly yours,

MARY A. MILLER, *Secretary.*

NATIONAL LEAGUE OF WOMEN VOTERS,
June 12, 1930.

Hon. GEORGE S. GRAHAM,
Chairman House Committee on Judiciary, Washington, D. C.

DEAR MR. GRAHAM: The National League of Women Voters wishes to record its support of S. 3061 providing for the collection and report of monthly employment statistics.

Since 1923 through its committee on women in industry the National League of Women Voters has studied the subject of unemployment, emphasizing particularly measures of unemployment prevention. It is obvious that any program for intelligent dealing with unemployment must start with adequate information concerning the extent of the evil. The league is on record by convention action in support of the "Collection of adequate employment statistics" as a necessary part of any comprehensive scheme for stabilizing employment. The need for such statistics has been strikingly illustrated by the crisis which has developed in the unemployment situation of recent months.

Although the league is not specifically authorized by its program to support the reorganization of the Federal employment service as provided for in S. 3060, its program does provide for support of "Adequate appropriation for the United States Employment Service" and in so far as S. 3060 does this we wish to express our interest in it.

This item is one which has been studied and supported by the League of Women Voters as early as February, 1920. When the league was officially organized in that year the following recommendation was adopted by the convention:

"We recommend to Congress and the Federal Government: The establishment of a joint Federal and State employment service with women's departments under the direction of technically qualified women."

In the nine succeeding conventions the league has reaffirmed its support of the Federal Employment Service. We therefore wish to record our friendly interest in S. 3060.

Respectfully yours,

FRANCES ANDERSON
(MRS. ROSCOE ANDERSON),
Acting President.

[The Saturday Evening Post, February 16, 1929]

UNEMPLOYMENT STATISTICS

By Kenneth Coolbaugh

America's industrial resurgence since the decade's dawn holds no promise more heartening than the changed attitude of its leaders toward unemployment. Formerly they gave their sympathy and money to lightening its effect upon others. To-day, in addition, they are giving a concern, constant and intent, to unemployment's effect upon themselves.

At my elbow rests a sheaf of letters. A bank of towering resources prefaces a round dozen questions with the phrase: "Because of the implications it has for general business, we are very much interested in the employment situation at the present time." An automobile finance corporation—48 offices grace its letterhead—requests periodic reports on the employment trend in a score of industrial fields that bloom within a trolley fare of my office. A steamship company of time-honored lineage, prodded by its New York office, asks for data, statistics, and general information from time to time on the extent of unemployment in industrial and near-by farming communities. A tire and rubber company incloses a questionnaire. Approximate percentages, numbers unemployed

to-day, one year ago, two years ago, and eight years ago, extent of immigration, and other themes engross it. Railroad and public-utility officials, 5-and-10-cent stores, theatrical booking agencies, life-insurance companies, welfare associations, economic foundations are but a few of the interest that, by letter or personal representatives, seek to glean what they can of unemployment.

Why is so much of the information they seek unavailable? So many of the figures they accept unreliable? And where, if anywhere, are the best charted channels for getting what they want or really need?

At the kick-off, the main reason much of the information and many of the statistics they seek are unobtainable is that rarely do we have a clear concept of what we mean when we use the word "unemployed." Take almost any day at any office—an employment mart where men seek work and work men. An acetylene welder asks for a job at his trade. He's been out of work a week. The moment holds no job in his craft, but the window's bulletin boards show a couple he could have if he would—orderly, laborer, for instance. He leaves, still without a job. A mechanical engineer calls, but at the moment there is nothing for him. A drafting job is offered him. Does he take it? "No, I don't want to go back to the board," he says, and leaves jobless. Pride of craft or common sense—call it anything you wish—makes each stick to the vocation he's mastered. Millions like these cherish the same fetish. Hunting jobs some of them are, but only because they prefer to hunt rather than take what they can get. Should they, then, be termed unemployed?

A carpenter strolls in; work in former jobs we've given him attests his competence.

"Anything in my line to-day?"

"Yeh, construction work out at ——"

"Whaddasit pay?"

"Eighty cents, time and half."

"Not for me, brother."

WHERE DOES A DEFINITION END?

A salesman calls. Selling jobs, good and indifferent, await him. He can just about take his choice, but no one of them strikes him foursquare. "If they'd make it seventy-five I might consider it," he says. He, too, leaves. Like them, also, there are millions. Men and women here, there, everywhere, who, when jobless, reject positions because they feel they are worth more than the positions offer. Unemployed should we call them? If so, how come? If not, why not?

A textile worker shuffles in. He quit his last job, en masse with a hundred others. It's his again for the asking, but he won't ask. Neither will another textile worker of the same trade take the striker's job if offered him. What of them?

A youth just out of high school or college enters. He wants a job, his first. For a week he's been trying to land one. Unemployed? Possibly, and yet he never has been employed.

To augment a dwindling family income a woman asks for part-time work. Husband or son is out of work. Perhaps at one time she has worked. There are hundreds of thousands like her, eager to earn however and whatever they can. Wage schedules, strikes, pride of craft are beyond their ken. Unemployed?

A pensioned locomotive engineer, jaded by inactivity, wants a whack at anything—bank guard, night watchman, elevator operator—anything that will crowd drab thoughts from his mind, give him an appetite, keep him from going to seed. The wages matter little. How many are there like him, hunting for a something to avert mental and physical atrophy? Keener to work, many of them, than those who have never worked. Unemployed?

An electrician, his last job finished the day before, drops in to ask when hiring will start on a building operation he is anxious to connect with. He's told he'll have to wait a week or two. He decided to make some needed repairs about his home or motor, fish, or gun until that particular operation is ready for him. Unemployed?

Comes scores of privates in the army of casual workers; men and women, the very nature of whose vocation is casual—stevedores, tally clerks, truckers, gardeners, building mechanics whose trades are seasonal. Comes, too, the never-depleted battalion of the unemployable—the halt, the feeble, the aged. Those, in short, whose state only a well-endowed sympathy can alleviate. They crave employment, many without reservations. If they're not unemployed, who is?

WHEN ANY GUESS IS GOOD

These are questions I can but ask. I am passing sure, however, though our main difficulty in ascertaining the number unemployed in a given area comes from a failure wholly to define the meaning of the word, another hurdle more formidable bars the way.

A last-winter's mail brought me a task to perform. High public officials had agreed that a deal of unemployment existed in the country at large. But how much? That, they felt, must be determined. Specific instructions stated just how the essential data could be reaped in my own community. And—quite important—a fairly adequate definition of unemployment accompanied them.

That was that. How to corral the figures was the next problem. Fortunately the letter of instruction told how. Six sources of information were to be visited and the best possible independent estimate secured in each case. The information gained from one source was not to be disclosed to another.

So to each said source the question was put: "How many persons usually employed are now out of work and looking for employment?"

No. 1, the local commander of a nation-wide organization devoted to salvaging the down-and-out, smiled engagingly: "About 40,000, I should say, in the city proper."

The secretary of the city's charities organization, No. 2, shook his head: "I haven't the faintest idea. Have you?"

"In the neighborhood of 60,000," asserted an official of the city's largest employment group.

A private employment agency asked to be excused. "If we gave you any figures they'd merely be shots in the air," they said.

Four that made. The fifth was a labor-union official.

"How many unemployed? 130,000 at the very least," he said—and breathed easier.

The sixth and last was a high police official. The question seemed to tickle him. "How many looking for jobs?" he said. "Too many. That's the best I can do for you."

So much for the six most authoritative sources. A seventh estimate—my own which was requested, was 35,000. Four estimates from seven sources; the highest figure nearly four times the lowest. Whose was closest to the correct figure? No one will ever know. All were shots in the air, because even with a cameo-clear definition at hand, no agency existed then or now with sufficient funds, time or staff to do the task in the one manner that sould possibly evolve the riddle's answer—by a city-wide, simultaneous, house-to-house canvass; an enterprise as exacting and costly as the taking of the census. That it can be done or some day will be is beside the question. It has not been done for the reason that substantially no city has a clearing house at which all its job seekers register. New York, Philadelphia, Chicago, St. Louis, and cities a tenth their size have their employment offices, private and public, but only in rare instances does more than a very thin percentage of their jobless population patronize any one agency exclusively.

And but a small minority of those who get jobs get them through either the fee-charging of the public agencies. The overwhelming majority land them through the medium of help-wanted columns of the newspapers, corner-store gossip, friends, and by approach to the employer or his personnel department.

The trend of the past ten years, nevertheless, is unmistakably toward a more constant patronage of employment agencies of private and public sponsorship. In the United States both are increasing in numbers; in Canada, where the private agency's growth is restricted, only the public offices are increasing. It is natural that they should in an era like the present, when the supply of man power exceeds the demand. For it is in such periods that the need for a specialized brokerage service is most keenly felt. When jobs are scarce the jobless seek any aid that may unearth jobs.

And while employment agencies multiply, so, too, with a portent significant, I believe, of a definite and come-to-stay policy, are increasing our commercial and industrial trade associations; an arc of whose functions in many instances is to recruit more substantial man power for their members. An official of such an organization, if he's fit, knows better than the broker what the plants back of him need and how best to select the men and women to fill these needs.

Therefore, when the coming years crystallize this trend, the searcher for unemployment as well as employment statistics will have a source more accessible, accurate and authoritative than any now existing. The same gradual transition will in all likelihood also bring employment agencies to broader usefulness and

see them directing men and women to well-rounded specialists in definite industries rather than referring them, as now, merely to jobs.

Until, then, a community has one clearing house where all folks seeking work register their state and needs, any figures as to the number unemployed in that community at a given time will be the more or less inspired opinions of people willing to express themselves on a subject the layman knows as much about as the authorities. All the man in the street has to do in order to puncture their logistics is to inquire who counted the jobless, and how.

But assuming, not for argument but for thought, that some day someone with a will and a wad reduces the x to a quantity known and indisputable. What then? How long would it be wise to use the figure thus gained as a pole star from which to make commercial reckonings? Not long, certainly, in this day of news flashes and rapid transportation, for no industrial species moves faster than real job hunters in pursuit of real jobs.

Early of an autumn morning a few years back I mailed from an anthracite center a registered, rush, special-delivery envelope to my superiors up the line. It contained unemployment data—the views and forecasts of scores of coal-belt people I'd talked with regarding the more or less voluntary unemployment then existing there, and the number of miners idle, of mechanical and operating department employes temporarily furloughed by the railroads serving the region, and of platform crews laid off by the local traction company. Sources of authority had contributed the figures almost to a decimal point.

SOME VERY NICE STATISTICS RUINED

The envelope had hardly reached a mail sack before I was in the depot of the city's largest railroad en route to another community affected with the same scourge. For 10 minutes I stood in line at a ticket window as inside and out hundreds of men of Old World extraction milled their way through stacks of baggage. Three tickets windows were working to capacity at 6 o'clock in the morning. The vanguard of the unemployed I'd tabbed so religiously were leaving for greener fields, where jobs in orchards, on road and power-plant construction, in the bituminous belt and steel mills beckoned them.

How many? No one knew. "Thousands," was the best the head ticket agent could vouchsafe when I passed his way a week later. "Thousands by rail and automobile every week." And when I returned to my offices, a night's ride distant, associates told me of the hundreds of baggage-laden tourists who had stormed the office, for many of whom they'd found jobs.

Not only, then, are figures on unemployment of fleeting value but a sponsorship of them by public officials or by groups imbued with the public interest may well spur others, equally public-spirited, to ask: "For what useful purpose?"

"The American specific for unemployment is employment. Does it help the morale of a community, bolster the confidence and stimulate its manufacturers to recall old employes or to take on new ones to learn that exactly 11 per cent, we'll say, of the community's or of the nation's workers are idle and therefore not potential buyers?"

The queries are Mr. Walter J. Lloyd's, director of the bureau of employment of the Pennsylvania Department of Labor and Industry at Harrisburg, and Federal director of the United States Employment Service for that Commonwealth.

He went on to say:

"It's a thing we should think about before we play publicly with figures. The individual, private or public, no matter how well-intentioned his purpose, who stresses unduly the extent of unemployment in a community, hacks at the very keystone of business and destroys the sole remedy for unemployment. And he serves ill those he most earnestly wishes to help, for a community whose leaders lose confidence stagnates until their confidence revives.

"Many, I know, will disagree with me. I respect both their opinions and their lofty aims. But let them for a moment put themselves in the place of men who haven't found the work they need. Will not the same figures that shatter the confidence of the manufacturer rob the jobless man of the quality he most needs—hope? Do not the jobless see and feel enough of unemployment without having the real or fancied fact that exactly so many others are in the same boat with them and their own prospects, therefore, made dimmer?"

From a brief case he handed me a paper. "Doesn't that impress you as a helpful bit of employment publicity, encouraging both to the worker and to the employer?"

I glanced at the paper. It contained a 200-word paragraph to the effect that employment within a certain district served by his bureau was rapidly mounting to peak proportions; that the prospects for stable employment for months ahead were better than they had been for two years.

"And yet it didn't turn out to be," he continued, "for the reason that wider publicity and greater emphasis were accorded it than anyone could foresee. What happened? Within a week after the item was released the district had more workers than it could absorb. Good mechanics from other States rushed there and in some instances got the jobs that otherwise would probably have gone to local mechanics. In some cases, too, they doubtless quit jobs, leaving their families behind them. Another unfortunate phase was that many men of the type that could not possibly be employed spent time and considerable railroad fare to no purpose. I mention the incident simply to emphasize the harmful effect of giving too wide circulation and too large headlines to an employment item, even though it be of an optimistic tinge. Print, unadorned, sometimes magnifies the simplest truth."

A LABOR BAROMETER

"But don't," he continued—"don't draw the conclusion that because I oppose printed and oral broadcasting of unemployment statistics I would detract from the value of these statistics where social relief is necessary. In cases of long-continued depression in a community they might well be invaluable. To my mind, unemployment statistics are as harmful to the employer and the man he would like to employ as is a blindly optimistic attitude that tends to embitter the social outlook of both."

And when all's said, why bask in shadows? Is not this the thing we really want to know; not so much about unemployment but more about the very real, determinable, inspiriting thing that makes unemployment loom, fade or disappear—the trend of employment? If we know the direction industry is moving in we have the world's best earnest on what is ahead in buying power. For industry seldom employs workers unless and until it is ready to produce goods. In every language business speaks, employment spells production, and production the capacity of producers to buy.

Where to scent the trend? If the proper study of mankind be man the proper place to study a subject is where the subject roosts. In the sphere of the printed word, what more reliable long-swing barometer of unemployment exists than the help-wanted advertisements of our foremost newspapers? What an uncanny fidelity, their bulk or paucity forecasts production's flow and ebb.

A mass of charts and statistics clutter my desk. They show, month on month, for many years, the total linage and number of help-wanted advertisements carried by certain outstanding newspapers in nine of our largest industrial centers. If your memory is rusty as to the general state of business in any one year or quarter thereo, you have but to consult them to get an unbiased, comprehensive answer. There you vision, year on year, the blast of optimism that greets each new year—spring's mawlike demand for men in the building trades; the lull of summer, when few of us are concerned with jobs for other people, to say nothing of our own; the return of interest in things futuristic that shows itself after Labor Day, and, finally, November's and December's coldness to the building industry and affection for inventories and for paring down overhead until after the holidays. And then January once again, in every city, each year, recording a greater demand that the previous year's December.

STATISTICS WITHOUT GUESSWORK

Help-wanted ads reflect the need for labor in general and in specific industries. By their absence or insistent presence they forecast the trend in production and eventually in buying power. But they indicate that demand for labor weeks, sometimes months, after the demand first arises; for when a plant has been dormant and is about to man its idle machines its first and logical move is to recall, by post, gate sign, or word of mouth, its furloughed employees. It inserts its help-wanted ads if and when its labor requirements continue unfilled.

In the judgment of an employment veteran of many years' service business has no more valuable indicator of the employment trend than reliable statistics properly appraised and promptly released for public use.

"But they should be weighed against other factors before we can be sure which way the pendulum is swinging," says Mr. Charles J. Boyd, general superintendent of the Chicago Free Employment Offices. "For instance, a most authoritative source we in Illinois have through our department of labor is the

pay-roll figures of nearly 1,500 establishments employing, according to the latest information compiled by our bureau of labor statistics, 374,115 men and women. You can see there the character of industries and mercantile firms that furnish the figures."

Manufacturers of metal and machinery, wood products, chemicals and oils, textiles and foodstuffs, as well as public utilities and merchandising houses, builders and contractors, are among the contributors that appear upon the list he handed me. More than 70 subclassifications of industry and commerce appear on it.

"Statistics such as these are not guesswork," Mr. Boyd continued. "None more trustworthy can be found, for they come direct from the employers themselves. Certainly, if they do not know the employment trend in their own plants no one does. Each month they furnish the number of employees on their pay rolls. By comparing these figures with those of previous months and years a pretty good idea is gained of how the particular industry stands, and to a large extent how promising is its immediate future. These comparisons also enable one to strike a balance, to understand which increases and decreases in employment are directly attributable to seasonal fluctuations such as are found in building and construction, textiles, the canning and packing undustries, and which are due to unusual and unexpected causes. Their value and reliability are enhanced by the fact that they show the employment trend at its source, sometimes before, sometimes after the newspapers have carried ads for the industry or employment offices have sent workers to it. But at the source, nevertheless.

"It is not safe, sometimes, to make the most obviously logical deductions, even from accurate statistics, no matter what their source. For instance, a report for one month may show a falling off of employees for one industry. If you have an abiding faith in figures you'll naturally conclude the employment trend in that field is downward and the business outlook poor, when, as a matter of fact, the decreased pay-roll force may be entirely due to difficulty in securing the necessary labor because of a shortage of competent help or possibly because of a temporary dispute over wages or working conditions. The volume of orders to be manufactured may never have been higher in the industry's history, yet the bare figures would belie that condition. Or, from another angle, our job-printing classification might show a marked increase in the working force for a certain month, due solely to an emergency such as getting out election ballots or mail-order catalogues or telephone directories, none of which would give the true picture of the prevailing trend in the local printing industry.

"The ratio of applicants to jobs available at a public employment office is also a substantial barometer. It is not bullet-proof, of course. For example, it is axiomatic among employment men that during hard times workers stick to their jobs, while the jobless, with more or less regularity, apply for work.

"But what happens when jobs become numerous? The jobless continue to apply, or obtain work, but many of those who have had jobs quit them in order to get better ones. They quit the potboilers for better-paying opportunities. In other words, the number of people applying for work at our office or at any given point does not necessarily prove that the employment situation is poor. An increasing number of applicants for work may, in a period of great surplus of jobs, be proof positive that a condition of general unemployment has ceased to exist.

"Cold figures and percentages must be mixed with a dose of experience before we are safe in proclaiming or forecasting a trend. Employment work holds a paradox at every turn. But these two factors—employers' pay-roll data and the ration of applicants to jobs available—are to my mind the best guides for finding the trend of employment; provided, always, they are compiled by people who have been jostled about by the perplexities and paradoxes of modern business."

"The value to the public," he concluded, "of such statistical data and interpretations is in direct ratio to the timeliness with which they are released for public review."

CLEARING HOUSES FOR WORKERS

Which, in the light of our present-day limitless leave to print at public expense, may goad even the most erudite to cackle: "Ain't it the truth?"

Employment data such as Illinois sponsors, New York, Massachusetts, California, Pennsylvania, and many other commonwealths in similar measure collect and distribute to their citizens. Our Federal Reserve banks, too, in periodic bulletins and through the press contribute statistical data of similar tinge; and on a scale still larger, the Federal Bureau of Labor Statistics at Washington.

But let's move to a stage larger than any of our commonwealths and learn if others are doing what we avowedly have not done—reduced to a science the art of learning where, on a given date, we stand employmentwise. Perhaps we're too prone to think that because we haven't evolved the problem's answer no one can.

From Halifax to Vancouver sixty-four public employment offices stud the Dominion of Canada. In the year ending with March last, 556,754 men and women entered these labor marts in search of work of myriad hues—in shop, office, mine, and homes, on farms, railroads, and highways. About 418,306 found work there awaiting them—four out of every five. For the purpose of coordinating the efforts of the various local offices and to effect the transfer of any kind of labor from districts where a labor surplus exists to where a dearth prevails, eight clearing houses have been established; while in the western reaches, where workers are in seasonal demand, temporary offices are each year established. More than 200,000—nearly one-half of the total number who were placed in employment—obtained positions outside of the centers in which the offices making the placements are located. Such mobility of labor is possible because of railroad-fare concessions granted by certain of the Dominion's railways. A newspaper advertising manager, were he selling such a service, could with sincerity say that it affords splendid coverage. It does—and yet:

"We are often asked how many persons are unemployed in Canada. Our reply is that no machinery exists to provide us with such information."

CANADA'S EMPLOYMENT SERVICE

Such is the verdict of a gentleman who, above all others, is qualified to render one, fair and unappealab.e—Mr. R. A. Rigg, director of the Employment Service of Canada, at Ottawa.

"Under existing circumstances no estimate can be formed that will be accepted as conslusively accurate. The inevitable tendency will be to allege that the number estimated is either absurdly high or low, according to the measure in which the interests of critics may be affected.

"I know of only two methods by which this question can be correctly answered. Either by a system of unemployment insurance covering all industries or by a compulsory registration of the unemployed under provisions as rigid as vital statistics registration. I am not indorsing either plan but simply suggesting that either would furnish the exact data concerning the state of unemployment."

"In the absence of either system," he continued, "our policy is to collect all the data we can regarding both unemployment and employment from every authoritative channel. We have three principal sources:

"More than 6,000 employers, representative of all industries with the exception of agriculture, fishing, and domestic service, who file monthly returns showing the number of persons in their employ; more than 1,600 local branches of trade-unions, out of a total number of 2,600 in Canada, which report monthly their membership totals and the number of these members out of employment; and thirdly, the records of the Employment Service of Canada, giving the number of applications for employment, vacancies listed, and placements made.

"Not all of them combined indicate the total number of persons who may be employed or unemployed. A study of them reveals the fact that they do furnish useful barometric readings, indicating trends in employment and unemployment. Such study further shows that these data are mutually confirmatory as trend indicators. Although the variations may differ in some degree, an examination of the records covering the past few years shows that when the index figure of employment returns rises, the index figure of unemployment returns from trade-unions lowers, and the percentage of vacancies for each 100 applicants registered in the offices of the Employment Service of Canada increases, and vice versa. These statistics are all of a national character and are representative of all parts of Canada. Quite obviously, their significance is conditioned by such factors as natural increase in population, immigration and emigration."

Such, then, are the generally accepted and most trustworthy fields we have from which to gardner figures that will aid us in learning where we are and whither we are tending.

But since statistics are made by men and therefore can rate no higher than the intelligence of those who compile them, are not men themselves the safer and more alert guides for us to follow? Men such as collectors of department store and industrial insurance debits, driver salesmen on milk and bread routes who day by day circulate through the home sectors of a community; officials of industrial-

loan companies who, by the number, type and tales of those they deal with, learn the drift in industrial pay rolls; charity and welfare officials, public and private, who, like them, feel the fluctuating pressures that grim necessity generates?

And Army and Navy recruiting men who know how easy it is to persuade potential industrial labor to sign up for a year or more when jobs are scarce, and how hard when they're numerous? Their statistics I've found a good barometer, provided one first takes the trouble to talk with those who compile them. A marked decrease in enlistments, for instance, in a given recruiting area may denote better times ahead for the area's industry, or merely the inconsequential fact that the area's quota of recruits has been filled.

Secretaries of trade associations—metal, building, textiles, electrical, woodworking, slate—too, are inexhaustible mines to the prospector for employment trends. More each year employment is becoming germane to their jobs and to the jobs of secretaries of councils, lodges and fraternal organizations.

But surpassing all these as harbingers of the work trend stand those who, in factories, mines and stores, our railroads and public utilities, employ the worker and record his release. Employment managers, directors of personnel, labor scouts—call them what you will.

Long before a labor trend toddles they know its ilk and in which direction it's about to go. Years of job brokering have yet to show me statistics on employment or unemployment pertaining to my own community that did more than confirm a condition that employment men I had talked with knew about long before it was reduced to figures.

The employment undertow that in the late winter of the past year was first-page news to millions was old stuff to thousands of employment men and women from coast to coast weeks before the winter's first snow fell. Why? Because theirs was the job of recording the departures of those whom the undertow caught.

And by the same token to-day, theirs is the job of recording the slow gradual upward surge in employment that, months from now, statistics may proclaim.

If Uncle Sam Turned Job-Hunter

By Kenneth Coolbaugh, Superintendent State Employment Office, Philadelphia

Since the fall of 1927 unemployment and a shortage of skilled man power in the metal trade have been curtailing our buying power and our production.

A large percentage of the idle would be working if they knew of jobs now available elsewhere and could get to them. Much of the shortage would be absorbed if business needing labor knew where to look for it.

"Very well, bring buyer and seller together through a system of employment exchanges. That's simple," says the layman.

Because that is being done with tolerable success on a small scale, thousands believe it can be done just as successfully on a national scale, through a clearing house at Washington.

This program interests business for two reasons. It entails increased expenditures of public funds and erects machinery that might be used for purposes even more costly to the taxpayer. Once a government underwrites the policy of registering with actuarial exactitude its unemployed, those so registered will in the end look to that government either to show them jobs or an alternative—unemployment doles.

What then of the need for an increase in the number of public employment offices and for a central exchange at Washington? With what success do public employment offices now existing find jobs for men and men for jobs? What are their inherent limitations, that, shifted to a larger stage, would be even more patent and conclusive?

BUREAU CAN'T DO IT ALL

There are to-day 209 public employment offices in this country. The majority post-date the war. Each year sees more of them, all underwritten by public funds—Federal, State or municipal. Each year, too, sees more men and women placed by them into gainful employment and a broader patronage of them by commerce and industry.

Very well, why not double, triple their number?

Because we can not appreciably change the employment conditions of any community or that of the nation merely by increasing the number of employment offices.

Only a change in the number of character of industries from which jobs spring can materially change an employment situation. Again, no matter how able its staff, a public employment office can do only a thin percentage of its community job placement work. The reasons are fundamental.

JOBS AND THE JOBLESS

Help-wanted columns, for instance, will long continue as the most convenient meeting place for jobs and the jobless. The number of private or so-called fee-charging offices, too, is constantly increasing. They would not multiply unless an increasing patronage warranted.

Of similar hue are the commissary companies that combine the business of recruiting labor with that of feeding and housing it on hydroelectric, highway and myriad construction operations. Each year brings more of them to a service that public agencies can not approximate unless commonwealths be authorized by law to engage in similar activities—with public funds.

How then can a governmental national clearing house reflect more than a narrow sector of the entire country's employment picture?

Furthermore, it is a near-truism in employment circles that applications for employment are worth little more than the paper they are written on. Glittering exceptions to the contrary, the great majority of employable men who file written applications for work to-day will, a week or two hence, have found their niche.

Within the past month my office associates have sent letters to 8 lead burners, 21 electricians, 43 electric and acetylene welders, 15 stenographers, 9 draftsmen, 12 plumbers and steamfitters, 18 chauffeurs, and 62 others of miscellaneous vocations, asking them to call regarding specific jobs that have materialized since they filed their applications with us. Total 188.

How many responded in person or by letter? Thirty-three. Less than 20 per cent—an average net that is seldom topped by fee-charging agencies or by employment departments of industrial firms. Of these 33 only seven were finally placed in the jobs we outlined to them.

What becomes of the 80 per cent? After filing applications, they find positions; move to other stamping grounds; illness overtakes them; traveling costs or a wife deter them; or from time to time, the job-bearing letters come back to their senders marked, "Not known at," or "No such address."

Conceive then a national clearing house striving to transfer 10 or 100 unemployed down-east mechanics to the automobile belt or an equal number of west-coast shipbuilders to the Great Lakes. The time factor of itself is a sufficient barrier to a fit performance of the task. The average office or unskilled manual opening to-day in our thickly settled communities is short-lived. In the cities 24 hours is a goodly span for its life.

Before help-wanted pages or employment bureaus can direct the right type of applicants to a plant or office it's an even break that the firm will fill the positions from its quota of daily job seekers. With the general exception of building trades and textiles the skilled to-day are the hunted; the tradeless, ever the great majority of the unemployed, are the job hunters. The former, because of mergers and relocating of industries, are at times temporarily marooned but they soon find their groove with little recourse to outside aid. But the tradeless, needing direction more, are less able to profit by it because their number usually far exceeds the jobs available.

But more formidable looms the perennial query that camps in every labor mart, who will pay the transportation?

For example, the early summer of 1929 saw a surplus of unskilled labor in various sections of the eastern seaboard and a shortage in Detroit. A practical problem such as would confront any national clearing house was how to put the idle to work and restore the buying power of thousands of families?

LABOR ISN'T MOBILE

My own office, one of many public employment bureaus, could have sent hundreds. Yet it sent none. The railroad fare deterred the idle from digging down in their own pockets without assurance that definite jobs would be theirs in Detroit; and quite properly, no funds from any public source were available to finance the expedition. We could only tell applicants that the jobs existed. The rest was up to principals.

That is the very core of the whole proposition of moving labor through a central clearing house. Labor is only as mobile as the money that moves it. In this particular instance, Detroit employers did what employers so confronted have to do. They themselves advanced the transportation.

The only other method that will accomplish a liaison in labor on a wholesale basis is such as is practiced in Canada. Whether a similar arrangement can or should be inaugurated here is a matter the American industrialist might consider. The Dominion's railways give workers rate reductions up to 30 per cent, R. A. Rigg, director of Canada's Employment Service at Ottawa, tells me. The reduced fare is allowed only on the going trip and tickets sold only to persons holding certificates which his department issues after establishing the applicants' capabilities and making sure that jobs will be theirs at destination.

In 1928 more than 43,000 artisans and unskilled workers took advantage of this reduction. In addition to these, every year, 1929 excepted, the railways on their own initiative effect a movement of more than 30,000 harvest workers from the eastern to the prairie provinces.

HOW CAN WE MOVE LABOR?

Whether or not this method can readily be applied here is at least debatable. So, too, may be the responsibility of passing the necessary regulation under our interstate commerce act. Whatever one's views on government subsidies, the procedure seems refreshingly free of the taint of class legislation because employers as well as workers and the public in general would profit by it.

Until this problem of transportation cost is adequately plubmed, job brokers will continue to be merely brokers. The greater the distance that separates their principals the more tedious, costly and futile will be their efforts to bring men and jobs together.

Assuming the transportation riddle solved, to what extent would one state cooperate in transferring its workers to another? Only so far as its public officials felt they could cooperate and still hold the sanction of the community that pays them. In fact, a number of States have laws restricting the recruiting of labor by our-of-state interests.

The only appreciable service that a national clearing house could render at present is to release accurate and timely information, not essentially about specific jobs, but rather about employment and industrial conditions—and to release it on the dot.

Each year brings me a striking example, a reliable and up-to-the-day series of bulletins that in six months corrals 100,000 men from every state.

They come from the director of the farm labor division of the United States Employment Service at Kansas City and tell when and where wheat cutting starts, of its northward sweep as the season advances, of threshing, corn husking, potato and apple picking; of the prevailing wages, living accommodations and where and when men may apply. Public employment offices in Louisiana, Texas, Oklahoma, Iowa, Kansas, the Dakotas, Minnesota, Washington, Oregon, and Colorado, working through the hub at Kansas City, direct to jobs thousands who otherwise would go through endless wanderings.

A man eager for harvest work can walk into any public employment office or any post office and see for himself in what zone his service will be needed. But it's up to him to get there.

On a similar stage such offices can perform, and do, a similar service in bringing about a contact between workers angling for a permanent niche and employers who need them. A worker, for instance, in nearly any craft can enter a public employment exchange in Pennsylvania, and if he wishes to follow his trade in any one of the commonwealth's largest industrial communities, can gauge his chances of getting what he wants where he wants it. At stated periods each of the State's 14 district offices forwards to the capital at Harrisburg a summary of the employment supply and demand in substantially all of the trades and vocations pursued in its community. Each report is then multigraphed and a complete copy of all of them mailed to every office.

In a year's time the aid rendered employers and workers through that medium is considerable. An employer with jobs to fill and the ability to meet workers face to face can ascertain his chances of finding in those districts the workers he needs. He uses the information to a far greater degree than does the job seeker.

Palpably a central clearing house that tries to do on a large scale what its component units do with only moderate success is doomed to even less success than its subsidiaries. A mail-order business in jobs shows results, but only in

retail volume. If the task is to be undertaken it must be done, crassly stated, on a wholesale basis.

Putting the idle of one community into jobs in another is, when accomplished, largely the work of private enterprise. When attempted by public agency success depends upon the worker's eagerness for a certain grade of work—as in the case of harvesting—and reliability of information given him.

A COMMON MEETING PLACE

Employment information to the employer who needs workers, giving him and the job seekers a place to get together and talk things over, is, it seems to me, the cardinal province of a public employment service because employment is the only cure for a labor surplus. The one outstanding service public employment offices can give is to show the employer who needs labor where he can get it and the unemployed where jobs await them.

At best that is about all the real constructive work a labor clearing house could do on a national stage—pass along data that, in moving through many mails and across many desks, would frequently become too stale for other than academic consumption.

For labor is only as mobile as principals make it.

(The committee thereupon adjourned subject to the call of the chairman.)

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